

The Mysore Gazette



PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

BANGALORE, FRIDAY, JULY 6, 1951

PART IV.

Section 2-B.

MORE ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE RAJPRAMUKH.

NOTIFICATION.

No. L.D. 683 - Legis. 39-51-1, dated Bangalore, 6th July 1951.

Ordered that the accompanying Mysore Prevention of Adulteration (Amendment) Act, 1951, which received the assent of the President on the 21st day of June 1951, be published as Mysore Act No. XXVIII of 1951, in the *Gazette* for general information.

MYSORE ACT No. XXVIII OF 1951.

THE MYSORE PREVENTION OF ADULTERATION (AMENDMENT) ACT, 1951.

(Received the assent of the President on the 21st day of June 1951)

An Act further to amend the Mysore Prevention of Adulteration Act, 1921.

WHEREAS it is expedient further to amend the Mysore Prevention of Adulteration Act, 1921, (Mysore Act No. XXVIII of 1951), for the purposes hereinafter appearing ;

Enacted as follows :—

1. This Act may be called the Mysore Prevention of Adulteration (Amendment) Act, 1951.

It shall come into force at once.

Short title
and
commence-
ment.

Amendment
of section 2
of Mysore Act
IX of 1921.

2. In section 2 of the Mysore Prevention of Adulteration Act, 1921, (hereinafter referred to as the said Act) after the definition of "ghee", the following definition shall be inserted, namely:—

"Vegetable oils" include groundnut oil, gingell oil, hutchellu oil, coconut oil and any other oil notified by the State Government in the *Mysore Gazette*

Amendment
of section 5
of Mysore Act
IX of 1921.

3. In sub-section (1) of section 5 of the said Act,

(a) in clause (d), after the word "cheese", a comma and the words "any vegetable oil" shall be inserted;

(b) for the words "with fine which may extend to one hundred rupees" and the words "with fine which may extend to five hundred rupees" the words "with fine which may extend to one hundred rupees" and the words "with imprisonment which may extend to six months or fine which may extend to one thousand rupees or with both" shall respectively be substituted

Amendment of
section 5-A
of Mysore Act
IX of 1921.

4. In section 5-A of the said Act, for the words "a fine which may extend to one hundred rupees" and the words "with a fine which may extend to five hundred rupees", the words "with a fine which may extend to two hundred and fifty rupees" and the words "imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or with both" shall respectively be substituted

Amendment
of section 20
of Mysore Act
IX of 1921.

5. In clause (e) of section 20 of the said Act, after the word "cheese" wherever it occurs, a comma and the words "any vegetable oil" shall be inserted.

By Order of His Highness the Maharaja

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government
Law Department

Reg. No. M. 1175



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BANGALORE, FRIDAY, JULY 6, 1951

PART IV

Section 2-B.

**MYSORE ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE RAJPRAMUKH.**

NOTIFICATION.

No. L.D. 684--Legis. 40-51-1, dated Bangalore, 6th July 1951.

Ordered that the accompanying Mysore Lotteries and Prize Competitions Control and Tax Act, 1951, which received the assent of the President on the 21st day of June 1951, be published as Act No. XXVII of 1951, in the Mysore Gazette for general information.

MYSORE ACT No. XXVII OF 1951.

**THE MYSORE LOTTERIES AND PRIZE COMPETITIONS
CONTROL AND TAX ACT, 1951.**

(Received the assent of the President on the 21st day of June 1951.)

**An Act to control and to tax lotteries and prize competitions
in the State of Mysore.**

WHEREAS it is expedient to control and to levy a tax on lotteries and prize competitions in the State of Mysore ;

Preamble.

It is hereby enacted as follows :—

1. (1) This Act may be called the Mysore Lotteries and Prize Competitions Control and Tax Act, 1951.

*Short title,
extent and
commence-
ment.*

(2) It extends to the whole of the State of Mysore.

(3) This section shall come into force at once ; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Mysore Gazette*, appoint in this behalf.

2. (1) In this Act, unless there is anything repugnant in the subject or context,

Definitions.

(a) “ coupon ” includes, in relation to a prize competition, any document in which the solution to the competition is submitted by any person ;

(b) “ licence ” means a licence granted under this Act ;

(c) “ money ” includes a cheque or any other negotiable instrument, a postal order or money order ;

(d) “ prescribed ” means prescribed by rules made under this Act ;

(e) “ prize competition ” includes—

(i) cross-word prize competition, missing words prize competition, picture prize competition, number prize competition, or any other competition for which the solution is prepared beforehand by the promoters of the competition or for which the solution is determined by lot ;

- (ii) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained or not yet generally known; and
- (iii) any other competition, success in which, does not depend to a substantial degree upon the exercise of skill;
- (f) "quarter" means a period of three months from the 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year;
- (g) "State" means the State of Mysore;
- (h) "ticket" includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(2) For the purposes of this Act—

- (a) reference to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; and
- (b) documents or other matters shall be deemed to be distributed if they are distributed to persons or in places whether within or outside the State and the expression 'distribution' shall be construed accordingly.

All lotteries
unlawful.

3. Subject to the provisions of this Act, all lotteries are unlawful.

Offences in
connection
with lotteries.

4. (1) Subject to the provisions of this section, every person who in connection with any lottery promoted or proposed to be promoted, either in the State or elsewhere—

- (a) publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear from doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, colour, or figure in the lottery; or

- (b) prints any tickets for use in the lottery ; or 6
- (c) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery ; or
- (d) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—
- (i) any advertisement of the lottery ; or
 - (ii) any list (whether complete or not) of prize winners or winning tickets in the lottery ; or
 - (iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries ; or
- (e) brings, or invites any person to send into the State, for the purpose of sale or distribution any ticket in, or advertisement of, the lottery ; or
- (f) sends or attempts to send out of the State,
- (i) any money or valuable thing received in respect of the sale or distribution of any ticket or chance in the lottery ; or
 - (ii) any document recording the sale or distribution of any ticket or chance in the lottery ; or
 - (iii) any document recording the identity of the holder of any ticket or chance in the lottery ; or
- (g) uses any premises, or permits any premises to be used, for purposes connected with the promotion or conduct of the lottery ; or
- (h) causes or attempts to cause any person to do any of the abovementioned acts,
- shall, on conviction, be punishable—
- (i) for the first offence with fine which may extend to one thousand rupees ;
 - (ii) for the second offence with fine which may extend to two thousand rupees ; and
 - (iii) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(2) In any proceedings instituted under sub-section (1), an accused person shall not be deemed to be guilty if he proves that the lottery to which the proceedings relate was such a lottery as is not deemed to be an unlawful lottery or prize competition under section 5, 6, 7 or 8, as the case may be, and that at the date of the alleged offence the accused believed and had reasonable grounds for believing that there was no contravention of any of the conditions required by section 5 or section 6 or section 7 to be observed in connection with the promotion and conduct of the lottery.

Licensed
entertainment
lotteries not
unlawful.

5. (1) A lottery promoted as an incident of an entertainment shall not be deemed to be an unlawful lottery, if the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—

(i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery ;

(ii) the expenses incurred in printing tickets in the lottery ; and

(iii) such sum (if any) not exceeding five hundred rupees, as may be specified in the licence as expenses which may be incurred by the promoters in purchasing prizes in the lottery

shall be devoted to purposes other than private gain ;

(b) none of the prizes in the lottery shall be money prizes ;

(c) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment ; and

(d) the facilities afforded for participating in lotteries shall not be the only, or the only substantial

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inducement to persons to attend the entertainment.

(3) If any of the conditions specified in sub-section (2) is contravened, every person concerned in the promotion or conduct of the lottery shall, on conviction, be punishable—

(a) for the first offence with fine which may extend to one thousand rupees; and

(b) for the second offence with fine which may extend to two thousand rupees; and

(c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both:

Provided that in any proceeding under this section, it shall be a defence for a person charged to prove that the offence was committed without his knowledge.

Explanation.—The entertainments to which this section applies are, bazaars, shandies, exhibitions, sales of work, exhibition of feats and other entertainments of a similar character, whether limited to one day or extending over two or more days.

6. (1) A private lottery shall not be deemed to be an unlawful lottery, if the promoter thereof has obtained licence in respect of such lottery.

Licensed
private
lotteries not
unlawful.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely:—

(a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of winning tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to a part of the proceeds, to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid;

(b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—

(i) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside; and

(ii) such announcement or advertisement thereof as is contained in the tickets, if any;

(c) the price of every ticket or chance shall be the same and shall be stated on the ticket;

(d) every ticket shall bear upon the face of it the name and address of the promoters and a statement of the persons to whom the sale of tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement;

(e) no ticket or chance shall be issued or allotted by the promoters except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received by a promoter shall in any circumstance be returned; and

(f) no tickets in the lottery shall be sent through the post.

(3) If any of the conditions specified in sub-section (1) is contravened, each of the promoters of the lottery, and where the person by whom the condition is contravened is not one of the promoters, that person also, shall, on conviction, be punishable—

(a) for the first offence with fine which may extend to one thousand rupees;

(b) for the second offence with fine which may extend to two thousand rupees; and

(c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both;

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Explanation.—For the purpose of this section—

(a) the expression “private lottery” means a lottery in the State which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either—

(i) members of one society established and conducted for purposes not connected with gaming, wagering or lotteries ; or

(ii) persons all of whom work on the same premises ; or

(iii) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorised in writing by the governing body of the society to promote the lottery ; and

(b) the expression “society” includes a club, institution, organisation or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

7. (1) Notwithstanding anything to the contrary contained in this Act, the State Government may, in respect of a lottery promoted for the benefit of a charitable, religious or educational institution or organisation, grant a licence, subject to such conditions and on the payment of such fees or taxes as may be specified in the said licence, and such lottery shall not be deemed to be an unlawful lottery :

Licensed
charitable
lotteries not
unlawful.

Provided that the rate of tax shall not be, in any case, higher than the rates set out in clause (a) of sub-section (1) and sub-section (2) of section 12.

(2) If any of the conditions specified in any licence granted under sub-section (1) is contravened, each of the promoters of the lottery, and where the person by whom

the condition is contravened, is not one of the promoters, that person also, shall, on conviction, be punishable—

- (a) for the first offence with fine which may extend to one thousand rupees;
- (b) for the second offence with fine which may extend to two thousand rupees; and
- (c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both:

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Licensed
prize
competitions
not unlawful.

8. A prize competition shall not be deemed to be an unlawful prize competition, if a licence in respect of such competition has been obtained by the promoter thereof.

Penalty for
contravention
of section 8.

9. Without prejudice to his liability, if any, to be proceeded against under the preceding provisions of this Act relating to lotteries, whoever contravenes the provisions of section 8 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Licences.

10. Every licence granted under this Act shall be granted by the State Government on payment of such fees and subject to such conditions and shall be in such form as may be prescribed.

Suspension or
cancellation
of licence.

11. The State Government may suspend or cancel a licence granted under this Act—

- (1) if there is any breach of any of the conditions subject to which the licence is granted; or
- (2) if the holder of such licence contravenes any of the conditions specified in section 5 or section 6 or in a licence referred to in section 7; or
- (3) if any tax payable under section 12 is not duly paid by the promoter; or

(4) if the holder of such licence contravenes any of the provisions of section 15; or

(5) for any other reason for which the suspension or cancellation of the licence is, in the opinion of the State Government, necessary in the public interest.

12. (1) There shall be levied—

(a) in respect of every lottery for which a licence has been obtained under section 5, section 6 or section 7, a tax at such rate not exceeding twelve and a half per cent of the total sum received or due in respect of such lottery as may be specified by the State Government, by notification in the *Mysore Gazette*; and

(b) in respect of every prize competition for which a licence has been obtained under section 8, a tax at such rate not exceeding twenty-five per cent of the total sum received in respect of such competition, as may be specified by the State Government, by notification in the *Mysore Gazette*.

Levy of tax on lotteries and prize competitions.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(2) Notwithstanding anything contained in subsection (1), the State Government may, by notification in the *Mysore Gazette*, direct that the tax to be levied in respect of a lottery or prize competition shall be at such rate not exceeding fifty per cent of the total sum received or due in respect of such lottery or prize competition as may be specified in the notification.

(3) The Deputy Commissioner may, after making such inquiry as he deems fit, determine the person who shall be deemed to be the promoter for the purposes of this section.

13. (1) The amount of tax to be levied in respect of a lottery or prize competition under section 12, shall be calculated by the Deputy Commissioner on the total sum received or due in respect of the lottery or prize competition as disclosed in the accounts maintained and statements submitted to him under section 15.

Calculation and recovery of tax levied under section 12.

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(2) In cases where no such accounts are maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Deputy Commissioner, false or incorrect, the Deputy Commissioner shall make the calculation to the best of his judgment.

(3) The tax leviable under section 12 shall, in the case of a prize competition, be paid within thirty days of the end of each quarter and in the case of a lottery be paid within thirty days of the date on which such lottery is drawn.

(4) If any tax payable under section 12 is in arrear, the Deputy Commissioner may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Deputy Commissioner may think it reasonable to recover.

14. All sums payable as fees or taxes under this Act shall be recoverable as arrears of land revenue.

Licence fee and other dues to be recoverable as arrears of land revenue.

15. Every person promoting a lottery or prize competition of any kind shall keep and maintain proper and correct accounts relating to such lottery or competition and shall submit to the Deputy Commissioner statements in such form and at such period as may be prescribed.

Promoters of lotteries or prize competitions to keep and maintain accounts.

16. If any promoter of a lottery or prize competition liable under section 15, to keep accounts or to submit statements, fails to keep the accounts or to submit the statements in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for failure to keep accounts.

17. The Deputy Commissioner may, for the purposes of this Act, at all reasonable times—

Power of Deputy Commissioner to require production of accounts or to inspect accounts.

- (i) require any promoter of a lottery or prize competition to produce before him accounts or other documents or to furnish any other information; or
- (ii) inspect the accounts of any such promoter.

18. It shall be lawful for a police officer—

Power of
entry and
search.

(i) in the City of Bangalore not below the rank of a Sergeant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the District Magistrate, and

(ii) elsewhere not below the rank of a Sub-Inspector of Police, authorised by a special warrant issued in each case by a Magistrate of the First Class or a District Superintendent of Police or by an Assistant Superintendent of Police specially empowered by the State Government in this behalf;

(a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room, or place which he has reason to suspect is used for purposes connected with the promotion or conduct of any lottery or prize competition;

(b) to search all parts of the house, room or place which he shall have so entered, the persons whom he shall find therein and also such persons as may be specified by name in the warrant;

(c) to take into custody and bring before a Magistrate all such persons;

(d) to seize all things which are reasonably suspected to have been used or intended to be used in connection with a lottery or prize competition and which are found therein:

Provided that no officer shall be authorised by special warrant unless the District Magistrate, the District or Assistant Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he thinks necessary, that there are reasonable grounds to suspect that the said house, room or place is used or is intended to be used for purposes connected with the promotion or conduct of an unlawful lottery or prize competition.

Searches how made.

19. All searches made under section 18, shall be made in accordance with the provisions of the Code of Criminal Procedure, 1904.

Power to arrest without warrant in certain cases.

20. A Police Officer may apprehend without warrant any person found or reasonably suspected of, committing an offence under clause (a), (c) or (d) of sub-section (1) of section 4, in any public street, or thoroughfare or in any place to which the public have or are permitted to have access.

Power of investigation.

21. (1) Every Officer not below the rank of Sub-Inspector of Police shall have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers (except the power to arrest without warrant otherwise than under section 20) conferred by the Code of Criminal Procedure, 1904, upon an officer in charge of a police station for the investigation of a cognizable offence.

Offences to be bailable.

22. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

23. No Magistrate, below the rank of a Magistrate of the First Class, shall try an offence under this Act.

Authorisation of certain officers to perform the functions of Deputy Commissioner.

24. The State Government may, by general or special order, authorise any officer to perform the functions of the Deputy Commissioner under any of the provisions of this Act.

Offences by corporation, etc.

25. Where a person committing an offence under this Act is a company or other body corporate or an association of persons, (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge, be deemed to be guilty of such offence.

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 26. The Deputy Commissioners and all officers duly authorised under section 24 shall exercise the powers and perform the duties conferred and imposed on them by or under this Act, in accordance with such orders as the State Government may, from time to time, make.

Deputy Commissioners and all officers to be subject to orders of State Government.

27. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Officers to be deemed public servants.

28. (1) No suit, prosecution or other legal proceeding shall be instituted against any officer of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of persons acting in good faith and limitation of

(2) No suit shall be instituted against the State Government and no prosecution or suit shall be instituted against any officer of the State Government in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

suits and prosecutions.

29. (1) Any person aggrieved by any order passed under this Act by the Deputy Commissioner or any officer authorised under section 24, may appeal against such order to the Excise Commissioner in Mysore or to such other officer as the State Government may appoint in this behalf.

Appeal and revision.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by subsection (3), be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

(3) The State Government, may, at any time, call for and examine the record of any order or the proceedings of, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

30. The State Government may exempt from all or any of the provisions of this Act any lottery or any prize competition the net proceeds of which are to be devoted to a charitable purpose.

Exemption.

Rules.

31. (1) The State Government may, by notification in the *Mysore Gazette*, make rules for the purposes of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters:—

- (i) the procedure for the grant of licences, the form of licence and the fees on payment of which and the conditions subject to which a licence shall be granted under section 10;
- (ii) the manner in which the accounts shall be kept and maintained and the form in which and the period at which, the statements of accounts are to be submitted under section 15.

(3) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to one hundred rupees.

(4) Rules made under this section shall be subject to the condition of previous publication.

Saving.

32. Nothing in this Act shall apply to—

- (a) any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by any Racing Club or by the Stewards thereof to enable him to carry on his business or vocation under the conditions mentioned under the exception to section 4 (i) (1) of the Mysore Police Act, 1908, as specified in the licence or permit or to any entries in respect of any stake or bet received by such person;
- (b) lotteries organised by the Government of India or the Government of a State within the meaning of entry 40 of List I in the Seventh Schedule to the Constitution of India.

Repeal of
section 294-A
of Act XLV
of 1860.

33. The provisions of section 294-A of the Indian Penal Code, (XLV of 1860), are hereby repealed.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

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BANGALORE, FRIDAY, JULY 6, 1951

PART IV

Section 2-C

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.**

NOTIFICATION.

No. L. 3151—Ml. 128-51-1, dated Bangalore, 6th July 1951.

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Town Municipalities Act, 1951 (Mysore Act XXII of 1951), His Highness the Maharaja of Mysore is pleased to appoint the 6th day of July 1951 as the date on which the provisions of the said Act shall come into force.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*I/c. Secretary to Government,
Local Self-Government Department.*

PART III. 79

Table of Registration Fees under section 78 of the Mysore Registration Regulation, No. I of 1903.

The registration fees payable to the several offices of Registration in Mysore shall be as follows:—

I. (a) For registration of documents in books I and IV—

					Rs.	a.	p.
(1)	When the value does not exceed Rs. 10	0	4	6			
(2)	When the value exceeds Rs. 10 but does not exceed Rs. 25			0	7	0	
(3)	Do 25 but does not exceed Rs. 50	0	9	0			
(4)	Do 50 do do	75	0	13	6		
(5)	Do 75 do do	100	1	2	0		
(6)	Do 100 do do	150	1	11	0		
(7)	Do 150 do do	200	2	4	0		
(8)	Do 200 do do	250	2	13	0		
(9)	Do 250 do do	300	3	6	0		
(10)	Do 300 do do	500	3	15	0		
(11)	Do 500 do do	750	4	8	0		
(12)	Do 750 do do	1,000	5	10	0		
(13)	Do 1,000 do do	2,500	—For the first thousand as under Sub-Clause 12, and for every 500 or part thereof in excess of 1,000				
					Rs. 1	2	0
(14)	Do 2,500 but does not exceed to Rs. 5,000—	For the first 2,500 as under Sub-Clause 13, and for every 500 or part thereof in excess of 2,500					
					Rs. 1	11	0
(15)	Do 5,000 but does not exceed Rs. 25,000—	For the first 5,000 as under Sub-Clause 14 and for every 1,000 or part thereof in excess of 5,000					
					Rs. 2	4	0
(16)	Do 25,000 but does not exceed Rs. 50,000—	For the first 25,000 as under Sub-Clause 15, and for every 1,000 or part thereof in excess of 25,000					
					Rs. 2	13	0
(17)	Do 50,000—	For the first 50,000 as under Sub-Clause 16, and for every 1,000 or part thereof in excess of Rs. 50,000					
					Rs. 3	6	0

(b) The consideration expressed in a document is generally taken to be its value for determining the registration fee. Where no consideration is expressed, the value of the property dealt with as shown in the document is taken.

(c) The provisions of sections 5, 6, 20, 21, 23 and 25, of the Mysore Stamp Regulation and of the Indian Stamp Act, respectively, are applied *mutatis mutandis* to calculations of value for the purpose of determining the registration fee.

(d) In the case of leases the value is taken—

- (1) at the total rent for the whole term when the lease is for periods not exceeding one year ;
- (2) at the average annual rent when the lease is for periods exceeding one year ;
- (3) at one-fifth of the whole amount of rents payable for the first fifty years when the lease is perpetual.

In all cases where a fine or premium is paid or is made payable or money is advanced, that amount is also added to the value. When a lessee undertakes to pay assessment quit-rent, etc., in addition to the rent, the said payment also is added to the rental value. If the rent is payable in kind and its money value is not specified in the lease, its value is taken to be the highest amount which the stamp borne by the document shall suffice to cover ; but if the lease bears no stamp or is exempt from stamp duty, the money value of the produce is calculated at the current market rates.

Where in agricultural leases for one year or less the rent is not fixed either in kind or in cash and the lease deed is unstamped, its value for purposes of registration is taken to be five times the assessment on the land the rent of which is secured by the instrument, when the survey assessment is specified in the lease.

(e) In the case of deeds of partition, the value of the separated share or shares on which the stamp duty is payable is taken as the value or consideration.

(f) When the value of the document is not specified :

In the case of all other documents in which neither the consideration for the transaction nor the value of the property affected is expressed, or in which it is only partially expressed the

value shall be the maximum amount which the stamp borne by the document is sufficient to cover, if the document is one which is liable to stamp duty at *ad valorem* rates. If the value cannot be determined from the stamp, as for instance when the deed is not liable to stamp duty, or is liable to duty at a fixed amount irrespective of the value of the transaction, or when the transaction is not susceptible of money valuation, the fee leviable shall be Rs. 6-12-0 provided that in cases where value of only a portion of the property or consideration is given and that value exceeds Rs. 1,500 the fee shall be levied on the value so expressed.

Note.—In the case of documents evidencing petty transactions incapable of valuation the Inspector-General of Registration may, if he considers that the levy of a fee of Rs. 6-12-0 would be productive of hardship, authorise Registering Officers to levy a lower fee, which however shall not be less than four annas and six pies.

(g) For registration of a document purporting to give collateral or auxiliary or additional or substituted security or security by way of further assurance, where the principle or primary mortgage is duly registered:—

Same fee as for the principle or primary mortgage.

(h) For document acknowledging receipt or payment of consideration on account of any previously registered document or for any receipt acknowledging payment of a debt or rent due under a previously registered document:—

Ad valorem fee as per Article 1A, subject to a maximum of Rs. 2-4-0, *vide* Government Notification No. Fl. 2366—Regis. 12-29-1, dated 25—26th September 1929.

(i) For a duplicate or counterpart of a document—

If registered at the same time as the original, Re. 0-4-6 per 100 words or part thereof provided that if the fee to be recovered at the rate of Re. 0-4-6 per 100 words is higher than the ordinary fee for registration, the ordinary fee shall be charged.

(j) Certified copies of decrees, orders of courts and awards—

Ad valorem fee as per Article 1 (a).

For Registration of Adoption deed :—

(Whether or not the deed refers
to immovable property to which
the adoptee becomes entitled). } Rs. 11-4-0.

G. O. No. Fl. 1628—Regis. 29-41-2, dated the
2nd September 1942.

II. For registration of Wills and Authorities to
adopt—

(a) Opening a sealed cover and entering the contents
in Book III :—

Rs. 2-4-0 *plus* copying fee at the prescribed rate.

(b) Will or Authority to adopt presented open :—

Rs. 11-4-0. Provided that in the case of
Wills in which the value of the property dealt
with is mentioned and that the value does not
exceed Rs. 3,000 the registration fee shall be
as per *ad valorem* scale in Article 1 (a).

III. Sealed Covers (Book V).—

[a] For deposit and entry in Book V
of a sealed cover purporting to
contain a Will

Rs. 3 6 0

[b] Withdrawal of any such cover .. Rs. 3 6 0

Article III—A. The registration fee for a deed of
cancellation or revocation shall be that liable on
the original document cancelled or revoked—
subject to a maximum of Rs. 5.

(G. O. No. Fl. 2250—Regis. 14-38-2, dated 16th
November 1938).

IV. Registration by a Registrar in cases other
than those in which a document is registered by a District
Registrar in consequence of the Sub-Registrar being a
party interested in the transaction to which such a
document relates—

Extra fee of Rs. 5 when registered under Section
30 (a) by any District Registrar and Rs. 10 when registered
by the District Registrar of Bangalore under Section
30 (b) of the Mysore Registration Regulation : Provided
that no extra fee shall be levied when the English docu-
ment is registered by a Registrar solely in consequence of
the language in which it is written being unknown to the
Sub-Registrar by whom it is properly registrable :

Provided also that no extra fee shall be levied for the registration of a counterpart or a duplicate of a document in respect of which extra fee has been paid, as above such counterpart or duplicate is presented for registration on the same day as the original document, when the original is also registered.

V. (a) (1) Memorandum under Sections 64, 65, 66 and 67 Rs. 1 2 0

(2) For each additional copy required for 100 words or part thereof Re. 0 4 6

(b) When a copy of instrument has to be sent to the Registrar of another district such copy should be charged for at the rate of Re. 0-4-6 per 100 words and additional fee of one rupee and two annas for each memorandum issuable under Section 66, must be levied and remitted to the Registrar.

VI. (a)—(i) Search for or inspection of a single entry or document—

For the first year in the Books of which search is made, for each entry or document Rs. 1 2 0

For every other year in the books of which search is continued for each entry or document Re. 0 4 6

(ii) General search for an inspection of any number of entries or documents relating to one and the same property or executed by or in favour of one and the same individual.

For the first year in the books of which search is made Rs. 2 4 0

For every other year in the books of which search is continued Re. 0 9 0

Note.—(1) The rates mentioned above as subject to a maximum of Rs. 5-10-0 and Rs. 11-4-0 in the cases of single and general searches, respectively, *vide* G.O. No. Fl. 1122—Regis. 26-26, dated 4th August 1927.

(2) Every application for the continuance of a search made after one week from the date of completion of that search will be treated as fresh application and the higher fees of Re. 1-2-0 or Rs. 2 4-0 respectively, will be charged for the first year in the books of which the search is desired to be continued.

Note.—(2) of Article VI (a) (ii) relating to fees for search under Section 57 of the Registration Regulation published in Notification No. P. 5552—Regis. 30-89-9, dated 6th January 1923 will be replaced by the following :—

“ Every application for the grant of a certified copy unless made at the time of registration of a document shall be considered as an application for search and charged accordingly, provided, however, that no fee for search shall be charged in respect of a document of which a copy is applied for when the names of claiming and executing parties, the nature of the document and the date of registration are shown in application for the copy.”

(Vide Notification No. Fl. C. 68—Regis. 41-25, dated 12th October 1926).

(4) The Inspector-General of Registration may, in his discretion remit in part the fee leviable under this article when it appears to him that the exaction of full fee would be productive of hardship.

VII. (1) (a) Granting certified copies or extracts from Registers, indexes or any documents (Sections 57 and 76) per 100 words or portion of 100 words. —

Re. 0-3-6, whether in English or Kannada.

(b) Granting of copy of map or plan. —

Re. 0-9-0, provided that the arrangements for and the cost of making such copies are made and borne by the person who applies for it.

(c) Granting copies of documents other than those mentioned above :—

At the rates prescribed in the rules issued by the Chief Court for the grant of copies in the Civil Court.

Note.—(1) Every figure, initial or abbreviation shall count as a word.

(2) Government Officers who may require to search the registers or to take copies of entries for *bona fide* public purposes shall be permitted to do so without payment of any fee.

(3) Copies of documents in languages other than in English or Kannada shall be charged at one anna per 100 words instead of 3 annas if a clerk knowing that language is employed in the Registration Office granting the copy. Also when a copy is printed at the expense of an applicant or when the applicant presents a printed copy of a document already registered and applies for a certified copy of the same, only the portion added in manuscript in the certified copy shall be charged for the ordinary rates of copying, and, in addition, a fixed fee of two annas shall be levied for comparing and certifying each copy.

(4) No charge shall be made for granting copies of reasons for refusal given by a Sub-Registrar.

VII. Powers of Attorney.—

	Rs.	a.	p.
(1) Registering a Power of Attorney	5	10	0
(2) Attesting a Special Power of Attorney	1	2	0
(3) Attesting a General Power of Attorney	2	4	0

Note.—(1) A single fee shall be levied for the attestation of a Power-of-Attorney whatever may be the number of signatories to it provided that all of them appear simultaneously for examination or execution. Where they do not so appear, a separate fee is levied for such set of persons appearing at the same time.

(2) The duplicate or the triplicate of a Power-of-Attorney presented for authentication shall be treated as a separate power and a separate attestation fee shall be levied for it.

IX. For filing translation Extra fee Rs. 1-2-0.

Note.—Filing copies of the orders, certificates and instruments referred to in Section 89 ... No fee.

X. (1) Issue of commission or attendance at a private residence or Jail.

(a) For registration of one or more documents executed by one and the same individual, or

(b) For the acceptance of registration of one or more documents executed in favour of one and the same individual or for the acceptance for deposit of a Will executed by an individual, or

(c) For the attestation of one or more Power-of-Attorney executed by one and the same individual.

(d) For the examination of one and the same individual under Section 33 or 38.

Rs. 11 4 0

Besides ordinary fee and travelling allowance.

(2) For the services of a female if required, extra fee as remuneration to her Rs. 5-10-0.

Note.—(1) Where two or more persons who are parties to the same document and who are entitled to exemption from attending the Registration Office reside together, or when two or more persons who are parties to the same document are confined in a Jail, only one attendance or commission fee shall be charged so far as those persons are concerned. In that event each such person shall be entitled to present for registration or attestation at such attendance any number of documents or Powers-of-Attorney or to admit execution of any number of documents presented for registration or to deposit a Will, without payment of any further attendance fee.

**Note.*—(2) “When in the course of attendance at a private residence a Registering Officer is required to record in respect of the

same instrument the admission of persons not entitled to the concession, the request, may, if possible, be complied with without the levy of any additional fee."

(*Vide* notification No. Fl. 5591—Regis. 6-32-7, dated 17th April 1933).

XI. For proceeding to and returning from a private residence or Jail, travelling allowance shall be allowed, at eight annas per mile to a Registrar and at 4 annas per mile to a Sub-Registrar or other persons deputed to take an examination.

XII. For the safe custody and return of documents. —

For each month or part of a month, during which a registered document is left unclaimed in a Registration Office, after the expiration of one month from the date of registry (to be paid before delivery of the document), four annas and six pies per month for documents of values up to Rs. 100 and nine annas per month for documents of values exceeding Rs. 100 or for documents in which no value is specified, subject to a maximum of Rs. 5-10-0 in any one case.

XIII. (1) For filing copies of memoranda relating to deposit of title-deeds received from Banks under Section 59, Clause (2), of the Transfer of Property Regulation. In cases where property mentioned in such memoranda are situated in more than one taluk or district and in cases where the property is not situated in the area to which Section 59 applies, Government are pleased to appoint the Registrar of Bangalore District as a Special Registrar for registering such memoranda and to exempt them from payment of the fees prescribed in paras 11 and 12 of the rules framed by Government under the Registration Regulation as regards fees payable thereunder.

Note.—Under Sub-Section (2) of Section 59 of the Transfer of Property Regulation, 1918, Government are pleased to extend the provisions of that Sub-Section to the whole of the areas comprised in the cities of Bangalore and Mysore.

(G. O. No. J. 4622—Legis. 43-17-3, dated 11th May 1918).

(2) On all documents registered, if containing more than 300 words, an additional fee at the rate of four annas and six pies per 100 words or fraction of 100 words is charged for the number above 300.

(3) If a document tendered for registration has one or more schedules appended to it, they are charged

for at the above rate according to the aggregate number of words contained in them.

(4) Special rates of fees for the registration of documents executed by or in favour of Agricultural Banks.

(a)	When the value does not exceed	Rs.	a.	p.
	Rs. 100 including schedules	0	9	0
(b)	Exceeding Rs. 100 but not exceeding Rs. 1,000.	1	2	0
(c)	„ 1,000 but not exceeding Rs. 5,000	2	4	0
(d)	In all other cases	4	8	0
(e)	Searches	Free or no fee.		
(f)	Certified copies for 100 words	0	1	6
(g)	Attesting Power-of-Attorney	0	4	6
(h)	Private attendance	2	4	0
(i)	Issue of commission	2	4	0
(j)	Mileage to Registering Officers or others per mile.	0	2	0

(5) Fees for registration, etc., of documents executed by or on behalf of any Co-operative Society for the time being registered under the Co-operative Societies Regulation or by an officer or member of such a society and relating to the business thereof.....half the fee.

(6) Fees for registration, etc., of documents executed by applicants and sureties in connection with loans obtained and arrangements entered into for the supply of machinery, etc., under the rules published with Government Notification No. G. 2146—G.M. 55-12-240. dated 2nd September 1913.

		Rs.	a.	p.
(a)	When the value does not exceed Rs. 100 including schedule	0	9	0
(b)	Exceeding Rs. 100 but not exceeding Rs. 1,000	1	2	0
(c)	„ 1,000 5,000	2	4	0
(d)	In all other cases	4	8	0
(e)	Search	Free or no fee.		
(f)	Certified copies (per 100 words)	0	1	6
(g)	Attesting Power-of-Attorney	0	4	6
(h)	Private attendance	2	4	0
(i)	Issue of commission	2	4	0
(j)	Mileage to Registering Officers or others per mile	0	2	0

(7) For Registration, etc., of instruments executed by or on behalf of or in favour of, the Mysore Palace.
Nil.

(8) Special rates for documents executed by applicants for loans to build and make other improvements for houses in the Mysore City and on those executed by their sureties.

	Rs.	a.	p.
(a) When the value does not exceed Rs. 100 ...	0	9	0
(b) Exceeding Rs. 100 but not exceeding Rs. 1,000 ...	1	2	0
(c) Search	Free.		
(d) Certified copies per 100 words	0	1	6
(e) Attesting Power-of-Attorney ...	0	4	6
(f) Private attendance or issue of commission ...	2	4	0
(g) Mileage to Registering Officers or others per mile ...	0	2	0

(Notification No. P. 34—Regis. 37-4-3, dated 4th July 1922

No. P. 5552—Regis. 34-19-9, dated 6th January 1923 and.

Notification No. S.R. 8058—Regis. 27-50-2, dated 31st March 1951).

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION

No. L.D. 2741—Legis. 3-50-11, dated, Bangalore, 13th December 1950.

Ordered that the accompanying Road Transport Corporations Bill, 1949, published in the *Gazette of India*, Part II, Section 2, dated the 18th November 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

30 PARLIAMENT OF INDIA

The following Report of the Select Committee on the Bill to provide for the incorporation and regulation of Road Transport Corporations, was presented to Parliament on the 15th November, 1950 :—

THE ROAD TRANSPORT CORPORATIONS BILL, 1949

REPORT OF THE SELECT COMMITTEE

We, the undersigned members of the Select Committee, to which the Bill to provide for the incorporation and regulation of Road Transport Corporations was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Clauses 1 and 2.—The amendments are purely formal to make these clauses conform to the Constitution.

Clause 3.—We think that the use of the expressions “as economically as possible” and “of preventing uneconomic competition” in part (c) may raise any complications. We have accordingly omitted such expressions and redrafted this part.

Clause 5.—We consider that where shares are issued to other parties under sub-section (3) of Section 22, there should be specific provision for representation of the shareholders in the Corporation through their elected representatives and such provision should be made in the rules under this Act. We have accordingly amended sub-clause (3) of clause 5.

Clause 8.—We have re-arranged the parts of this clause and we think that when the State Government wants to remove a member nominated by the Central Government on the ground that he has failed or is unable to carry out his duties, he should not be removed except with the concurrence of the Central Government. We have accordingly inserted a proviso to part (d).

Clause 11.—We think that the meetings of a Corporation should be held at least once in every three months. We have, accordingly, modified sub-clause (1) by inserting a proviso thereto.

Clauses 13 and 14.—The chief executive head of a Corporation may be called either the Chief Executive Officer or the General Manager. These clauses have been modified accordingly.

Clause 16.—It might be necessary to appoint more than one Advisory Council and we have redrafted the clause so as to make it clear that the power to constitute an Advisory Council should vest in the State Government but the State Government shall before constituting any such Council, ascertain the views of the Corporation on such matter.

Clause 17.—In our opinion, the expression “subject to the provision of any law for the time being in force in a State” is unnecessary and we have omitted it.

Clause 18.—We consider that it is unnecessary to state that a Corporation shall exercise its powers subject to the provisions of any law for the time being in force in a State and we have omitted the relevant words in sub-clause (1).

We have added two new parts (k) and (l) to sub-clause (2) as we feel that the Corporation should be given such powers specifically.

We have added a new sub-clause (5) to provide that where a Corporation requires the whole or any part of an undertaking, the Corporation should, in appointing its officers and servants, take into consideration the claims of employees employed in that undertaking.

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Clause 20.—We think that the rates at which and the terms and conditions on which mails are to be carried by a Corporation should be specified by the Central Government in consultation with the State Government rather than by the State Government in consultation with the Central Government. Necessary changes have accordingly been made.

Clause 22.—In sub-clause (3), we have inserted a few words so as to leave no doubt that the displaced operators may also subscribe to the share capital of the Corporation.

Clause 29.—We consider that the whole of the net profits of a Corporation should not be utilised for the amenities of passengers using a road transport service or for the welfare of the labour employed in the Corporation. Only such percentage of the annual profits as may be specified in this behalf by the State Government should be utilised for such purposes and the balance should be made over to the State Government concerned for the purpose of road development. The clause has been modified accordingly.

Clause 30.—The changes suggested are merely consequential to the amendments made in clauses 17 and 18.

Clause 33.—We think that the State Government should give directions as to the recruitment of employees of the Corporation also and we have accordingly inserted the word "Recruitment" in sub-clause (1).

Clause 35.—It is not necessary that the person to be appointed to make inquiries should be an officer of the Government. We have accordingly substituted the word "person" or "persons" for "officer" or "officers".

Clauses 36 and 37.—The changes made in these clauses are merely consequential and drafting changes.

Clause 38.—We have made some drafting amendments in this clause.

Clause 39.—We consider that the Chairman of an arbitral tribunal should be an independent person. We suggest that he should be appointed by the Chief Justice of a High Court.

We note that this clause does not specify the principles which should be taken into account in assessing compensation to be paid when an undertaking is acquired under this Act. Such principles have been laid down in section 47 of the U. K. Transport Act, 1947.

We, however, feel that the matter is of such importance that the Central Government should take necessary steps to lay down the principles of compensation either by rules under this Act or by separate legislation.

There may also be cases in which certain routes at present operated by private parties may be handed over to a Corporation by refusal to renew their permits. We feel that even in such cases, fair compensation is due to the displaced operators. We note that such a provision exists in the U. K. Transport Act, 1947. We recommend that the Government should take necessary steps to examine this question with a view to see that such cases are suitably dealt with and that no unfair use is made of the Motor Vehicles Act, 1939.

Clause 40.—We consider that any amendments which are to be made in the Motor Vehicles Act, 1939, should be made in that Act and not in this Bill, and we have accordingly omitted this clause.

New clauses 40, 41 and 42.—We suggest that the three new clauses may be inserted.

Clause 40 deals with powers of a Corporation to delegate its powers and duties to the Chief Executive Officer or General Manager. Such powers of the Corporation appear to be necessary,

Clause 41.—There are certain advantages in declaring a Corporation to be a local authority within the meaning of the Motor Vehicles Act.

We consider that the motor vehicles of a Corporation should be exempted from the operation of the provisions of Chapter VIII of the Motor Vehicles Act which

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deals with insurance of motor vehicles against third party risks. Before granting any such exemption, however, the State Government must be satisfied that the Corporation has established and maintained a fund to meet any liability which the Corporation may incur to third parties.

Clause 42:—It vests a Corporation with powers to authorise any of its officers and servants to enter upon any land or premises for carrying out the functions of the Corporation. We suggest that the Corporation may be vested with such powers.

Original *clauses 41 and 42* have been renumbered as clauses 43 and 44, respectively.

Clause 44 (original clause 42).—The amendments made in this clause are merely consequential on the amendments suggested in the earlier clauses of the Bill. We also suggest that the rules should prescribe the number of members necessary to constitute a quorum in a meeting of the Corporation.

Original *clause 44* is to be renumbered as clause 45.

New clause 46.—This is a new clause which has been inserted to provide for penalty for breach of rules made under clause 44. We consider such powers necessary.

2. The Bill was published in Part V of the *Gazette of India*, dated the 31st December, 1949.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

B. R. AMBEDKAR
K. SANTHANAM
SOCHET SINGH
RANBIR SINGH CHAUDHARI
RAM CHANDRA UPADHYAYA
SATIS CHANDRA SAMANTA
KISHORI MOHAN TRIPATHI
KRISHNA CHANDRA SHARMA
S. RAMASWAMI NAIDU
B. N. MUNAVALLI
C. M. POONACHA
RAJ KANWAR
BEPIN BIHARI VARMA
JAGANNATH DASS
R. VENKATARAMAN
GOKULBHAI D. BHATT
M. S. HIMATSINGHJI
T. M. KALIYANNAN
K. CHALIHA
*HUKAM SINGH
D. P. KARMARKAR

NEW DELHI,
The 15th November, 1950.

*Subject to a Minute of Dissent.

When the State itself comes down into the field of 'competition with private persons it must compete with them on equal terms, and not claim preferential treatment'.

Clause 3.—Our country is very poor. Common man cannot spare much for his transport. Most of his income is exhausted in food and bare clothing. It is not only the efficiency that is needed in transport. It should also be economical as far as possible, and commensurate with his means.

The words "as economically as possible" and "of preventing uneconomic competition" in part (c) of clause 3 must have provided a wholesome check. These words have a history behind them and were added in the original act when it was under discussion on the 9th April, 1949. In my opinion they should be retained.

Clause 17.—There is no reason why these words should be omitted. The provisions contained in the Motor Vehicles Act were incorporated for the comfort and convenience of the user. Why should state transport be absolved from such responsibilities. The same applies to clause 18. The new sub-clause (5) is welcome indeed, but there is no guarantee that the employees would not be thrown out without any just cause.

Clause 22.—Sub-clause (3) has made the displaced operators eligible for shares when "the other parties" are invited to subscribe. But no preference has been given to these unlucky persons who, for no fault of theirs, would be deprived of their living. The policy of the Central Government declared earlier, to form Tripartite companies should have been adhered to.

Clause 39.—The Select Committee appreciated the hardship that could be caused by the State Government simply refusing to renew the permits and thus hitting the operators at the very root. Pious wishes have been expressed. But there is no sanction for these. The only effective remedy is to incorporate the relevant provisions of the U. K. Motor Vehicles Act.

NEW DELHI;

HUKAM SINGH.

The 15th November, 1950.

THE ROAD TRANSPORT CORPORATIONS BILL, 1949.

[AS AMENDED BY THE SELECT COMMITTEE.]

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A. BILL NO. 82 OF 1949.

A Bill to provide for the incorporation and regulation of Road Transport Corporations.

* * * * *

Be it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Road Transport Corporations Act, 1950.

(2) It extends to the whole of India except the States of Delhi and Jammu and Kashmir.

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State, and different dates may be appointed for different States.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(1) “ancillary service” means any subsidiary service which provides amenities or facilities to persons making use of any road transport service of a Corporation;

(2) “Corporation” means a Road Transport Corporation established under section 3;

(3) “extended area” means any area or route to which the operation of any road transport service of a Corporation has been extended in the manner provided in section 19;

(4) “prescribed” means prescribed by rules made under this Act;

(5) “road transport service” means a service carrying passengers or goods or both by road in vehicles for hire or reward;

(6) “vehicle” means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport, and includes a tramcar, a trolley-vehicle and a trailer;

(7) words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (IV of 1939), have the meanings assigned to them in that Act.

(2) In the application of this Act to any Part B State, any reference to an enactment not in force in that State shall be construed as a reference to the corresponding law in force in that State.

CHAPTER II

ROAD TRANSPORT CORPORATIONS

3. Establishment of Road Transport Corporation in the State.—The State Government, having regard to—

(a) the advantages offered to the public, trade and industry by the development of road transport;

(b) the desirability of co-ordinating any form of road transport with any other form of transport;

(c) the desirability of extending and improving the facilities for road transport in any area and of providing an efficient system of road transport service therein;

may, by notification in the Official Gazette, establish a Road Transport Corporation for the whole or any part of the State under such name as may be specified in the notification.

4. Incorporation.—Every Corporation shall be a body corporate by the name notified under section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

5. Constitution of Road Transport Corporations.—(1) Subject to rules made under this Act, a Corporation shall consist of a Chairman and such number of other members as the State Government may think fit to appoint.

(2) The State Government may, if it so thinks fit, appoint one of the other members as the Vice-Chairman of the Corporation.

(3) Rules made under this Act shall provide for the representation both of the Central Government and of the State Government concerned in the Corporation in such proportion as may be agreed to by both the Governments and of nomination by each Government of its own representatives therein, and where the capital of a Corporation is raised by the issue of shares to other parties under sub-section (3) of section 22, provision shall also be made for the representation of such shareholders in the Corporation and the manner in which the representatives shall be elected by such shareholders.

(4) The term of office of, and the manner of filling casual vacancies among, members of the Corporation shall be such as may be prescribed.

6. Disqualifications for being chosen as, or for being, a member of a Corporation.—A person shall be disqualified for being chosen as, or for being, a member of a Corporation—

- (a) if he is found to be a lunatic or a person of unsound mind ; or
- (b) if he has been adjudged insolvent ; or
- (c) if he has been convicted of an offence involving moral turpitude ; or
- (d) if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company, provided that where he is a shareholder he shall disclose to the State Government the nature and extent of shares held by him in such company ; or
- (e) if he has any financial interest in any other road transport undertaking.

7. Resignation of office by the Chairman or a member.—The Chairman or any other member of a Corporation may resign his office by giving notice in writing to the State Government and, on such resignation being accepted by that Government, shall be deemed to have vacated his office.

8. Removal of Chairman and members from office.—The State Government may remove from office the Chairman or any other member of the Corporation who—

- (a) is or becomes subject to any of the disqualifications mentioned in section 6 ; or
- (b) is convicted of an offence involving moral turpitude ; or
- (c) without excuse sufficient in the opinion of the State Government, is absent * * from more than four consecutive meetings of the Corporation ; or
- (d) in the opinion of the State Government, has failed, or is unable, to carry out his duties so as to render his removal necessary :—

Provided that no member nominated by the Central Government shall be removed from office without the concurrence of that Government.

9. Vacancies amongst members or defect in the constitution not to invalidate acts or proceedings of a Corporation.—No act or proceeding of a Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

10. Temporary association of persons with a Corporation for particular purposes.—(1) A Corporation may associate with itself for any particular purpose in such manner as may be determined by regulations made under this Act any person whose assistance or advice it may desire,

(2) A person associated with it by the Corporation under sub-section (1) for any purpose shall have a right to take part in the discussions of the Corporation relevant to that purpose, but shall not have a right to vote at a meeting of the Corporation, and shall not be a member for any other purpose.

11. Meetings of Corporations.—(1) A Corporation shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act:

Provided that the Corporation shall meet at least once in every three months.

(2) The person to preside at a meeting of a Corporation shall be the Chairman thereof, or in his absence from any meeting, the Vice-Chairman, if any, or in the absence of both the Chairman and the Vice-Chairman, such member as may be chosen by the members present from among themselves to preside.

(3) All questions at a meeting of a Corporation shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairman or, in his absence, any other person presiding shall have a second or casting vote.

12. Authentication of orders and other instruments of a Corporation.—All orders and decisions of a Corporation shall be authenticated by the signature of the Chairman or any other member authorised by the Corporation in this behalf, and all other instruments issued by a Corporation shall be authenticated by the signature of the Chief Executive Officer or General Manager or any other officer of the Corporation authorised in like manner in this behalf.

13. Officers and servants of the Corporation.—(1) Every Corporation shall have a Chief Executive Officer or General Manager and a Chief Accounts Officer appointed by the State Government.

(2) A Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

(3) The conditions of appointment and service and the scales of pay of the officers and servants of a Corporation shall—

(a) as respects the Chief Executive Officer or General Manager and the Chief Accounts Officer be such as may be prescribed, and

(b) as respects the other officers and servants be such as may, subject to the provisions of section 33, be determined by regulations made under this Act.

14. The Chief Executive Officer or General Manager and the Chief Accounts Officer.—(1) The Chief Executive Officer or General Manager shall be the executive head of the Corporation and all other officers and servants of the Corporation shall be subordinate to him.

(2) The Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

15. General disqualification of all officers and servants.—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of, a Corporation, or in any other road transport undertaking shall become or remain an officer or servant of the Corporation.

16. Appointment of Advisory Council.—* * * The State Government may, after ascertaining the views of the Corporation, by notification in the Official Gazette, constitute one or more Advisory Councils consisting of such number of persons, on such terms, and for the purpose of advising the Corporation on such matters, as may be specified in that notification.

CHAPTER III

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POWERS AND DUTIES OF CORPORATION

17. General duty of Corporation.—* * * It shall be the general duty of a Corporation so to exercise its powers as progressively to provide, or secure or promote the provision of, an efficient, adequate, economical and properly co-ordinated system of road transport services in the State or part of the State for which it is established and in any extended area :

Provided that nothing in this section shall be construed as imposing on a Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court of tribunal to which it would not otherwise be subject.

18. Powers of Corporation.—(1) Subject to the provisions * * * of this Act, a Corporation shall have power—

(a) to operate road transport services in the State and in any extended area ;

(b) to provide for any ancillary service ;

(c) to provide for its employees suitable conditions of service including establishment of provident fund, living accommodation, places for rest and recreation and other amenities.

(2) Subject to the provisions of this Act, the powers conferred by sub-section (1) shall include power—

(a) to manufacture, purchase, maintain and repair rolling stock, vehicles, appliances, plant, equipment or any other thing required for the purpose of any of the activities of the Corporation referred to in sub-section (1).

Explanation.—In this clause, the expression “manufacture” does not include the construction of the complete unit of a motor vehicle except for purposes of experiment or research ;

(b) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for the purpose of any of the said activities, and to lease, sell or otherwise transfer any property held by it ;

(c) to prepare schemes for the acquisition of, and to acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the State concerned and with such procedure as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that State or in any extended area ;

(d) to purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertaking ;

(e) to authorise the disposal of scrap vehicles, old tyres, used oils, or any other stores of scrap value ;

(f) to enter into and perform all such contracts as may be necessary for the performance of its duties and the exercise of its powers under the Act ;

(g) to purchase vehicles of such type as may be suitable for use in the road transport services operated by the Corporation.

(h) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles, or any other article owned or possessed by the owner of any other undertaking for use thereof by the Corporation for the purposes of its undertaking ;

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(i) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for training, education and research :

(j) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods providing for the carriage of passengers or goods on behalf of the Corporation by that other person at a through fare or freight ;

(k) to provide facilities for the consignment, storage and delivery of goods ;

(l) to enter into contracts for exhibition of posters and advertising boards on and in the vehicles and premises of the Corporation and also for advertisement on tickets and other forms issued by the Corporation to the public ;

(m) with the prior approval of the State Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

(3) Nothing in this section shall be construed as authorising a Corporation, except with the previous approval of the State Government—

(i) to manufacture or maintain anything which is not required directly or indirectly for use for the purpose of the undertaking of the Corporation or to repair, store, or provide any service for, any vehicle which does not belong to the Corporation or is not used directly or indirectly for the purpose of its undertaking ;

(ii) to purchase any vehicle for the purpose of sale to another person ;

(iii) to sell or supply to any person lubricants, spare parts, or equipment for or accessories to, vehicles ;

(iv) to let vehicles on hire for the carriage of passengers or goods except as expressly provided by or under this Act.

(4) Except as otherwise provided by this Act nothing in the foregoing provisions shall be construed as authorising the Corporation to disregard any law for the time being in force.

(5) Where a Corporation acquires the whole or any part of an undertaking of any other person, the Corporation shall, in appointing its officers and servants, take into consideration the claims of employees employed in that undertaking.

(6) The provisions of this section shall not be construed as limiting any power of a Corporation conferred by or under any subsequent provision of this Act.

19. Extension of the operation of the road transport service of a Corporation to areas within another * * State.—(1) If a Corporation considers it to be expedient in the public interest to extend the operation of any of its road transport services to any route or area situated within another State, it may, with the permission of the State Government, negotiate with the Government of the other State regarding the proposed extension.

(2) If the Government of the other State approves the proposed extension, the Corporation shall prepare a scheme for the purpose and forward the same to the other Government for its consent, and after such consent has been received, the Corporation may, with the previous approval of the State Government, sanction the scheme.

(3) After the scheme has been so sanctioned, it shall be competent for the Corporation to extend the operation of its road transport service to such route or area and when the operation of such service is so extended, the Corporation shall operate the service on that route or in that area subject to the provisions of any law in force in the other State within which such route or area is situated.

(4) The Corporation may, from time to time, alter or extend the scheme sanctioned under sub-section (2) by a supplementary scheme prepared and sanctioned in the manner provided in the foregoing provisions of this section.

20. Carriage of mails.—Notwithstanding anything contained in the Motor Vehicles Act, 1939 (IV of 1939), a Corporation shall, if so required by the Central Government, carry mails at such rates and on such terms and conditions as may be specified in this behalf by the Central Government in consultation with the State Government.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT.

21. General principle of Corporation's finance.—It shall be the general principle of a Corporation that in carrying on its undertaking it shall act on business principles.

22. Capital of the Corporation.—(1) The Central Government and the State Government may provide to a Corporation established by the State Government, in such proportion as may be agreed to by the both the Governments, any capital that may be required by the Corporation for the purpose of carrying on the undertaking or for purposes connected therewith on such terms and conditions, not inconsistent with the provisions of this Act, as the State Government may, with the previous approval of the Central Government, determine.

(2) Where the capital of a Corporation is not provided under sub-section (1), the Corporation may raise, by the issue of shares, such capital as may be authorised in this behalf by the State Government.

(3) The authorised capital of the Corporation shall be divided into such number of shares as the State Government may determine; and the number of shares which shall be subscribed by the State Government, the Central Government and other parties (including persons whose undertakings have been acquired by the Corporation) shall also be determined by the State Government in consultation with the Central Government.

(4) The allotment of shares to other parties mentioned in sub-section (3) shall be made by the Corporation in such manner as may be prescribed.

(5) The shares of the Corporation shall not be transferable except in accordance with the rules made under this Act.

(6) The Corporation may at any time, with the previous approval of the State Government, redeem the shares issued to the other parties under sub-section (4) in such manner as may be prescribed.

23. Additional capital of the Corporation.—If, after the issue of shares under section 22, a Corporation requires any further capital, the Corporation may, with the previous sanction of the State Government, raise such additional capital by the issue of new shares and the provisions of sub-sections (2), (3), (4), (5) and (6) of the said section shall apply to the issue of such shares.

24. Guarantee by the State Government.—The shares of a Corporation shall be guaranteed by the State Government as to the payment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the State Government by notification published in the Official Gazette at the time of issuing the shares.

25. Borrowing powers.—A Corporation may, with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of raising its working capital.

26. Fund of the Corporation.—(1) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) Except as otherwise directed by the State Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, or invested in such securities as may be approved by the State Government.

27. Payment of interest and dividend.—(1) Where the capital of a Corporation is provided by the Central Government and the State Government under sub-section (1) of section 22, the Corporation shall pay interest on such capital at such rate as may, from time to time, be fixed by the State Government in consultation with the Central Government and such interest shall be deemed to be a part of the expenditure of the Corporation.

(2) Where the Corporation raises its capital by issue of shares, it shall pay dividend on such shares at such rate as may, from time to time, be fixed by the Corporation, subject to any general limitations which may have been imposed by the State Government in consultation with the Central Government, and such dividend shall be deemed to be a part of the expenditure of the Corporation.

28. Provision for depreciation and reserve and other funds.—(1) A Corporation shall make such provisions for depreciation and for reserve and other funds as the State Government may, from time to time, direct.

(2) The management of the said funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined by the Corporation :

Provided that no fund shall be utilised for any purpose other than that for which it was created without the previous approval of the State Government.

29. Disposal of net profits.—After making provision for payment of interest and dividend under section 27 and for depreciation, reserve and other funds under section 28, a Corporation may utilise such percentage of its net annual profits as may be specified in this behalf by the State Government for the provision of amenities to the passengers using the road transport services, welfare of labour employed by the Corporation * * and for such other purposes as may be prescribed with the previous approval of the Central Government, and the balance shall be made over to the State Government for the purpose of road development.

30. Power of the Corporation to spend.—A Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act * * * and such sums shall be treated as * expenditure payable out of the fund of the Corporation.

31. Budget.—(1) Every Corporation shall, by such date in each year as may be prescribed, prepare and submit to the State Government for approval a budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.

(2) Subject to the provisions of sub-sections (3) and (4), no sum shall be expended by or on behalf of a Corporation unless the expenditure of the same is covered by a current budget grant approved by the State Government.

(3) A Corporation may sanction any re-appropriation within the grant from one head of the expenditure to another or from a provision made for one scheme to that in respect of another, subject to the condition that the aggregate budget grant is not exceeded.

(4) A Corporation may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the State Government under any head of expenditure or in connection with any particular scheme.

32. Accounts and audit.—(1) Every Corporation shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

(2) The accounts of a Corporation shall be audited by the auditor appointed by the State Government at such times and in such manner as may be prescribed.

(3) As soon as the accounts of a Corporation have been audited, the Corporation shall send a copy thereof together with a copy of the report of the auditor thereon to the Central Government and the State Government.

CHAPTER V.

MISCELLANEOUS.

33. Directions by the State Government.—(1) The State Government may, after consultation with a Corporation established by such Government, give to the Corporation general instructions to be followed by the Corporation, and such instructions may include directions relating to the recruitment, conditions of service and training of its employees, wages to be paid to the employees, reserves to be maintained by it and disposal of its profits or stocks.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general instructions issued under sub-section (1) except with the previous permission of the State Government.

34. Returns and reports.—(1) Every Corporation shall furnish to the State Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme as the State Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), a Corporation shall, as soon as possible after the end of each financial year, submit to the Central and the State Governments a report on the exercise and performance by it of its powers and duties under this Act * * during that year and on its policy and programme.

35. Power to order inquiries.—(1) The State Government, with a view to satisfy itself that the powers and duties of a Corporation established by that Government are being exercised and performed properly, may, at any time, with the previous approval of the Central Government, appoint any person or persons to make inquiries into all or any of the activities of the Corporation and to report to the State Government the result of such inquiries.

(2) The Corporation shall give to the person or persons so appointed all facilities for the proper conduct of the inquiries and shall produce before, or furnish to, the person or persons any document, account or information in the possession of the Corporation with such person or persons demand for the purposes of the inquiries.

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36. Power to control a part of the undertaking of a Corporation.—(1) If on receipt of the report of any inquiry held under section 35 or otherwise, the State Government is satisfied that it is necessary so to do in the public interest, the State Government may, with the previous approval of the Central Government, by notification in the Official Gazette, authorise any person to take over from the Corporation, * * and so long as that notification is in force, to administer in accordance with such directions as may be issued from time to time by the State Government such part of the undertaking of the Corporation as may be specified in the notification, and any person so authorised may, for the purpose of so administering the said part of the undertaking, exercise all or any of the powers of the Corporation or of any officer of the Corporation under this Act, * * issue such directions as he thinks fit to the officers or servants of the Corporation and employ any outside agency.

(2) The State Government may by such notification direct that all charges and expenses incurred by the person so authorised together with such remuneration as the State Government may allow from time to time to such person shall be paid within such time as may be fixed by the State Government from the fund of the Corporation, and if the expenses are not so paid, the State Government may make an order directing the persons having the custody of that fund to pay to the person so authorised such expenses in priority to any other charges against such fund and he shall, so far as the funds to the credit of the Corporation admit, comply with the order of the State Government.

37. Power to supersede a Corporation.—(1) If the State Government is of opinion that a Corporation established by that Government is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act, * * or has exceeded or abused its powers, the State Government may, with the previous approval of the Central Government, by notification in the Official Gazette, supersede the Corporation for such period as may be specified in the notification:

Provided that before issuing a notification under this sub-section the State Government shall give a reasonable time to the Corporation to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation.

(2) Upon the publication of a notification under sub-section (1) superseding a Corporation— * * *

(a) all the members of the Corporation shall, as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Corporation shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct;

(c) all property vested in the Corporation shall, during the period of supersession, vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government may—

(a) extend the period of supersession for such further term as it may consider necessary; or

(b) reconstitute the Corporation in the manner provided in section 5.

* * *

38. Liquidation of a Corporation.—(1) No provision of any law relating to the winding up of companies or corporations shall apply to a Corporation, and

no Corporation shall * be placed in liquidation save by order of the State Government concerned and save in such manner as may be directed by that Government :

Provided that no such order shall be made by any State Government except with the previous approval of the Central Government.

(2) In the event of a Corporation being placed in liquidation, the assets of the Corporation, after meeting the liabilities, if any, shall be divided among the Central and the State Government and such other parties, if any, as may have subscribed to the capital in proportion to the contribution made by each of them to the total capital of the Corporation.

39. Compensation for acquisition of road transport undertakings.—Whenever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(b) where no such agreement can be reached, the amount shall, subject to rules made under this Act, be determined by an arbitral tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and a Chairman to be nominated by the Chief Justice of the High Court exercising jurisdiction in relation to the State concerned ;

(c) an appeal shall lie to the district judge against the decision of the tribunal and the order of the district judge on such appeal shall be final.

40. Delegation of power and duties to the Chief Executive Officer or General Manager.—A Corporation may, by general or special order in writing, delegate to the Chief Executive Officer or General Manager, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary for the efficient running of the day-to-day administration of its undertaking.

41. Corporation to be deemed to be a local authority and provision as to third party risks.—(1) A Corporation shall be deemed to be a local authority within the meaning of the Motor Vehicles Act, 1939 (IV of 1939).

(2) The State Government may, by notification in the Official Gazette, exempt the motor vehicles of a Corporation from the operation of the provisions of Chapter VIII of the Motor Vehicles Act, 1939 :

Provided that no such notification shall be issued unless a fund has been established and is maintained by the Corporation in accordance with the rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of the Corporation which the Corporation or any person in the employment of the Corporation may incur to third parties.

42. Power of entry.—Whenever it is necessary for a Corporation to carry out any of its works or to make any survey, examination or investigation, preliminary or incidental to the exercise of powers or the performance of duties by the Corporation under this Act, any officer or servant of the Corporation generally or specially empowered by the Corporation may, with the previous permission of the district magistrate, enter upon any land or premises between sunrise and sunset, after giving reasonable notice of the intention to make such entry to the owner or occupier of such land or premises, and at any other time, with the consent in writing of the owner or occupier of such land or premises, for the purpose of the carrying out of such works or the making of such survey, examination or investigation.

43. Members, officers and servants of a Corporation to be public servants.—

All members of a Corporation, and all officers and servants of a Corporation, whether appointed by the State Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

44. Power to make rules.—(1) The State Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the conditions and manner of appointment of members of a Corporation, the representation in the Corporation of the Central and the State Government and where shares are issued to other parties under sub-section (3) of section 22, of such shareholders, and generally all matters relating to the constitution of the Corporation ;

(b) allowances or fees to be paid to the members of the Corporation or other persons associated with the Corporation under section 10 ;

(c) the term of office of, the manner of filling casual vacancies among, members of the Corporation ;

(d) the number of members necessary to constitute a quorum at a meeting of the Corporation ;

(e) the conditions of appointment and service and the scales of pay of the Chief Executive Officer or General Manager and the Chief Accounts Officer of the Corporation ;

(f) the number and term of office of, the allowances to be paid to, the procedure to be followed by, and the manner of filling casual vacancies among, members of an Advisory Council ;

(g) the procedure for compulsory acquisition by the Corporation of the whole or any part of the undertaking ;

(h) the payment of due compensation to owners of road transport services the operation of which is acquired by the Corporation ;

(i) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed ;

(j) the manner in which the net profits of the Corporation shall be utilised ;

(k) the date by which, and the form in which, the budget shall be prepared and submitted in each year under sub-section (1) of section 31 ;

(l) the forms and the manner in which the accounts of the Corporation shall be maintained ;

(m) the time at which, and the manner in which, the accounts of the Corporation shall be audited ;

(n) the form in which the returns, statistics or reports shall be submitted under section 34 ;

(o) the procedure to be followed in determination of compensation by an arbitral tribunal under section 39 ;

(p) any other matter which has to be, or may be, prescribed.

45. Power to make regulations.—A Corporation may, with the previous sanction of the State Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the manner in which, and the purposes for which, persons may be associated with the Corporation under section 10 ;

(b) the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings ;

(c) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the Chief Executive Officer or General Manager and the Chief Accounts Officer.

46. Penalty for breach of rules.—The State Government may, by rule, provide that the breach of any rules made by it under section 44 shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing one, with a further fine not exceeding twenty rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence.

47. Repeal of Act XXXII of 1948.—The Road Transport Corporation Act, 1948 (XXXII of 1948) is hereby repealed.

M. N. KAUL,

Secretary.

NOTIFICATION.

46

No. L.D. 90--Legis. 3-50-23, dated Bangalore, 16th April, 1951.

Ordered, that the accompanying Parliament Prevention of Disqualification Bill, 1951 (26 of 1951) published in the *Gazette of India*, Part II, Section 2, dated the 31st March 1951; be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 26th March, 1951 :—

BILL No. 26 OF 1951.

A Bill to declare certain offices of profit not to disqualify their holders for being members of Parliament.

BE it enacted by Parliament as follows :—

1. Short title and commencement.—(1) This Act may be called the Parliament Prevention of Disqualification Act, 1951.

(2) It shall be deemed to have come into force on the 26th day of January, 1950.

2. Prevention of disqualification for membership of Parliament in certain cases.—It is hereby declared that the following offices of profit under Government shall not disqualify, and shall be deemed never to have disqualified, the holders thereof for being members of Parliament :—

(a) the offices of Chairman and members of the Fiscal Commission which was appointed by the Government of India in the month of April, 1949 and which ceased to function in the month of June, 1950 ;

(b) the offices of Chairman and member of the Film Inquiry Committee appointed by the Government of India in the month of August 1949 ;

(c) the office of Chairman of the Working Party for the Coal Industry appointed by the Government of India in the month of March 1950 ;

(d) the offices of members of the Railway Local Advisory Committees appointed by the Government of India for the year ending on the 31st day of March, 1950 or for the year ending on the 31st day of March, 1951 ; and

(e) the office of the Assistant Government Pleader held under the Government of Assam for any period not extending beyond the 8th day of November, 1950.

STATEMENT OF OBJECTS AND REASONS.

Article 102 (1) (a) of the Constitution lays down that a person shall be disqualified for being chosen as, and for being, a member of Parliament if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. There were certain committees or boards set up by Government both before and after the commencement of the Constitution to which members of Parliament had been appointed and were in receipt of certain allowance and/or fees (like subsistence allowance, daily allowance and travelling allowance) in connection with their duties as members of such committees or boards. As it is felt that in these cases the question as to disqualification for membership of Parliament is not free from doubt, and in any case, as such appointments were made under the *bona fide* belief that they would not amount to disqualification under article 102 (1) (a) of the Constitution, the Bill makes provision to remove such disqualification retrospectively.

The office of the Assistant Government Pleader held under the Government of Assam has also been included in the Bill, as the member concerned who had been holding the post since 1948 was under a misapprehension at the time of his election to the Provisional Parliament on 5th January, 1950 and resigned the office when he came to know of the constitutional position.

NEW DELHI ;
The 17th March, 1951.

B. R. AMBEDKAR.

M. N. KAUL,
Secretary.

PART IV

Section—1-B. 48

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE
CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 226—Legis. 4-51-10, dated Bangalore, the 9th May 1951.

Ordered that the accompanying Indian Tariff (Second Amendment) Act, 1951 (Central Act No. XX of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 28th April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

received assent on 28th April 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE INDIAN TARIFF (SECOND AMENDMENT) ACT, 1951
(XX OF 1951.)

AN

ACT

further to amend the Indian Tariff Act, 1934.

Be it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Indian Tariff (Second Amendment) Act, 1951.

IV—1B

2. Amendment of section 4A in Act XXXII of 1934.—In sub-section (2) of Section 4A of the Indian Tariff Act, 1934 (hereinafter referred to as the principal Act), for the words "in session", wherever they occur, the word "sitting" shall be substituted.

3. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the principal Act,—

(i) for Item No. 8 (3), the following Item shall be substituted, namely :—

"8 (3)	Fruits, candied and crystallised.	Protective	40 per cent <i>ad valorem.</i>	...	...	December 31st, 1952";
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(ii) for Item No. 20 (1), the following Item shall be substituted, namely :—

"20 (1)	Fruit Juices, Squashes, Cordials and Syrups not otherwise specified—					
	(a) manufactured in a British Colony.	Revenue	26 per cent <i>ad valorem.</i>	...	...	...
	(b) not manufactured in a British Colony.	Revenue	36 per cent <i>ad valorem.</i>	...	...	...

(iii) for Items Nos. 20 (3), 20 (4) and 20 (5), the following Items shall be substituted, namely :—

"20 (3)	Fruits, canned, bottled or otherwise packed, not otherwise specified—					
	(a) manufactured in a British Colony.	Protective	26 per cent <i>ad valorem.</i>	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective	36 per cent <i>ad valorem.</i>	...	...	December 31st, 1952.
20 (4)	Jams, Jellies and Marmalades, canned, bottled or otherwise packed.	Protective	40 per cent <i>ad valorem.</i>	...	...	December 31st, 1952.
20 (5)	Juices either individually or in mixture, of the following fruits, namely: Apricots, Berries, Grapes, Pineapple, Plums and Prunes—					
	(a) manufactured in a British Colony.	Revenue	30 per cent <i>ad valorem.</i>	...	...	...
	(b) not manufactured in a British Colony.	Revenue	36 per cent <i>ad valorem.</i>	...	...	...

(iv) for Items Nos. 20 (8) and 20 (9), the following Items shall be substituted, namely:—

20 (8)	The following fruits, canned or otherwise packed, namely: Apricots, Berries, Grapes, Plums and Prunes, and fruit salads composed not less than 80 per cent in quantity and in value of the above named fruits—					
	(a) manufactured in a British Colony.	Protective	30 per cent <i>ad valorem</i> .	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective	36 per cent <i>ad valorem</i> .	...	...	December 31st, 1952.
20 (9)	Pineapples, canned or otherwise packed—					
	(a) manufactured in a British Colony.	Protective	28 per cent <i>ad valorem</i> .	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective	36 per cent <i>ad valorem</i> .	...	...	December 31st, 1952."

(v) for Item No. 48 (1), the following Item shall be substituted, namely:—

48 (1)	Fabrics, not otherwise specified, containing more than 90 per cent of artificial silk.					
	(a) of British manufacture.	Protective	30 per cent <i>ad valorem</i> or 2½ annas per square yard, whichever is higher.	...	...	December 31st, 1952.
	(b) not of British manufacture.	Protective	50 per cent <i>ad valorem</i> or four annas per square yard, whichever is higher.	...	...	December 31st, 1952."

(vi) for Item Nos. 48 (4) and 48 (5), the following Items shall be substituted, namely:—

48 (4)	Fabrics, not otherwise specified, containing more than 10 per cent and not more than 90 per cent silk—					
	(a) containing more than 50 per cent of silk or artificial silk or of both.	Protective	50 per cent <i>ad valorem</i> plus I.s. 2 per lb.	...	...	December 31st, 1952.
	(b) containing not more than 50 per cent of silk or artificial silk or of both—					
	(i) containing more than 10 per cent artificial silk.	Protective	50 per cent <i>ad valorem</i> or Rs. 18.0 per lb., whichever is higher.	...	...	December 31st, 1952.

“ 48 (5)	(ii) containing no artificial silk or not more than 10 per cent artificial silk.	Protective	50 per cent <i>ad valorem</i> .	...	...	Deceml 31st, 1952
	Fabrics, not otherwise specified, containing no silk or containing not more than 10 per cent silk but more than 10 per cent and not more than 90 per cent artificial silk—					
	(a) containing 50 per cent or more cotton—					
	(i) of British manufacture.	Protective	30 per cent <i>ad valorem</i> or 2 annas per square yard, whichever is higher.	...	...	Deceml 31st, 1952
	(ii) not of British manufacture.	Protective	50 per cent <i>ad valorem</i> or 3½ annas per square yard, whichever is higher.	...	...	Deceml 31st, 1952
	(b) containing no cotton or containing less than 50 per cent cotton—					
	(i) of British manufacture.	Protective	30 per cent <i>ad valorem</i> or 2½ annas per square yard, whichever is higher.	...	...	Deceml 31st, 1952
	(ii) not of British manufacture.	Protective	50 per cent <i>ad valorem</i> or 4 annas per square yard, whichever is higher.	...	...	Deceml 31st, 1952

(vii) in Item No. 48 (6), in the entry in the second column, after the word “specified”, the words “containing no silk or artificial silk or” shall be inserted;

(viii) for Item No. 48 (7), the following Item shall be substituted, namely

“ 48 (7)	Fabrics, not otherwise specified, containing not more than 10 per cent silk or 10 per cent artificial silk or 10 per cent wool, but containing more than 50 per cent cotton and not more than 90 per cent cotton—					
	(a) of British manufacture.	Protective	25 per cent <i>ad valorem</i> .	...	...	Deceml 31st, 1952
	(b) not of British manufacture.	Protective	50 per cent <i>ad valorem</i> .	...	...	Deceml 31st, 1952.

(ix) for Item No. 72 (33), the following Item shall be substituted, namely:—

“ 72 (33)	Pickers used in textile industries.	Protective	10 per cent <i>ad valorem</i> .	...	...	Deceml 31st, 1952
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K. V. K. SUNDARAM,
Secy. to Govt. of Ind

NOTIFICATION. 52

No. L.D. 227—Legis. 4-51-11, dated Bangalore, the 9th May 1951.

Ordered that the accompanying Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1951 (Central Act No. XXI of 1951) published in the *Gazette of India*, Part II, section 1, dated the 28th April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

Received assent on 28th April 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE COAL MINES PROVIDENT FUND AND BONUS SCHEMES (AMENDMENT) ACT, 1951 (ACT XXI OF 1951).

AN

ACT

further to amend the Coal Mines Provident Fund and Bonus Schemes Act, 1948.

BE it enacted by Parliament as follows :—

1. Short Title.—This Act may be called the Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1951.

2. Insertion of new Section 10A in Act XLVI of 1948.—After Section 10 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948 (hereinafter referred to as the principal Act), the following section shall be inserted, namely :—

“10A. *Mode of recovery of money due from an employer.*—Any amount due from an employer in respect of any contribution or bonus under any scheme framed under this Act may be recovered by the Central Government in the same manner as an arrear of land revenue.”

3. Amendment of the First Schedule, Act XLVI of 1948.—In the First Schedule to the principal Act—

(a) for paragraph 2, the following paragraph shall be substituted and shall be deemed always to have been substituted, namely :—

“2. Payment of contributions to the Fund by employers and by, or on behalf of, employees, the rate, time and manner of such payment and the manner in which such contributions may be recovered.”

(b) in paragraph 3, for the words “it shall be paid” the words “the payment shall be made” shall be substituted.

K. V. K. SUNDARAM,

Secretary to Govt. of India.

83 NOTIFICATION.

No. L.D. 228—Legis. 4-51-12, dated Bangalore, the 9th May 1951.

Ordered that the accompanying Administration of Evacuee Property (Amendment) Act, 1951, (Central Act No. XXII of 1951) published in the *Gazette of India*, Part II, Section 1, dated the 28th April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received assent on 28th April 1951.

GOVERNMENT OF INDIA

MINISTRY OF LAW.

THE ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT)
ACT, 1951 (XXII of 1951).

AN

ACT

further to amend the Administration of Evacuee Property Act, 1950.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Administration of Evacuee Property (Amendment) Act, 1951.

2. Amendment of section 2, Act XXXI of 1950.—In clause (f) of section 2 of the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the said Act), after sub-clause (1), the following sub-clause shall be inserted and shall be deemed always to have been inserted, namely:—

“(1A) belonging to a joint stock company of which not less than fifty-one per cent of the shares are held by evacuees, notwithstanding that the registered office of such company is situated in any part of the territories to which this Act extends, or”.

3. Substitution of new section for section 17, Act XXXI of 1950.—For section 17 of the said Act, the following section shall be substituted and shall be deemed always to have been substituted, namely:—

“17. *Exemption of evacuee property from processes of court, etc.*—(1) Save as otherwise expressly provided in this Act, no evacuee property which has vested or is deemed to have vested in the Custodian under the provisions of this Act shall, so long as it remains so vested, be liable to be proceeded against in any manner whatsoever in execution of any decree or order of any court or other authority, and any attachment or injunction or order for the appointment of a receiver in respect of any such property subsisting on the commencement of the Administration of Evacuee Property (Amendment) Act, 1951, shall cease to have effect on such commencement and shall be deemed to be void.

1936, was included in the State of Madras, unless the State Government concerned, by notification in the Official Gazette, so directs."

3. **Insertion of new Chapter IIA in Act I of 1917.**—In the principal Act, after Chapter II, the following shall be inserted, namely :—

"CHAPTER IIA.

REGISTRATION OF INLAND STEAM-VESSELS.

19A. *Inland steam-vessels not to proceed on voyage or be used for service without certificate of registration.*—(1) An inland steam-vessel shall not proceed on any voyage or be used for any service, unless it has a certificate of registration in force in respect thereof and granted under this Act.

(2) Nothing in this section shall—

(a) apply to any steam-vessel built at any place other than a place of registry and making her first voyage to any such place for the purpose of registration; or

(b) be in derogation of the provisions contained in section 3.

19B. *Place of registry and registering authorities.*—(1) The State Government may, by notification in the Official Gazette,—

(a) declare such places within the territories under its administration as it thinks fit to be places of registry; and

(b) appoint registering authorities at the said places for the purposes of this Act.

(2) Every person appointed as a registering authority shall, for the purposes of any registration made by him, be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

19C. *Book of registration.*—At every place of registry, a book shall be kept by the registering authority in which all the particulars contained in the form of the certificate of registration shall be duly entered and such registering authority shall, immediately after registering any inland steam-vessel or within one month at the furthest, send to the State Government a true and exact copy, together with the number, of every certificate which shall be so granted by it.

19D. *Application for registration.*—An application for registration of an inland steam-vessel shall be made by the owner or master of the vessel in such form and shall contain such particulars as may be prescribed and shall be accompanied by a copy of the certificate of survey in force issued in respect of the vessel.

19E. *Places of registration.*—(1) Every application for registration shall be made to a registering authority within the local limits of whose jurisdiction the owner of the inland steam-vessel ordinarily resides or carries on business.

(2) Where the owner applying for a certificate of registration is a company registered under the Indian Companies Act, 1913 (VII of 1913), the application may be made to a registering authority within the local limits of whose jurisdiction the principal office of the company is situate.

(3) Notwithstanding anything contained in this section, an inland steam-vessel may be registered by a registering authority in any State, although the owner does not ordinarily reside or carry on business in that State or, if a company, the principal place of business of the company is not situate in that State.

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(2) Where, after the 1st day of March, 1947, any evacuee property which has vested in the Custodian or is deemed to have vested in the Custodian under the provisions of this Act has been sold in execution of any decree or order of any court or other authority, the sale shall be set aside if an application in that behalf has been made by the Custodian to such court or authority on or before the 17th day of October, 1950."

K. V. K. SUNDARAM,

Secretary to Government of India.

NOTIFICATION.

No. L.D. 244—Legis. 4-51-18, dated Bangalore, 10th May 1951.

Ordered that the accompanying the Inland Steam-vessels (Amendment) Act, 1951 (Central Act No. XXVI of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 4th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received assent on 3rd May, 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE INLAND STEAM-VESSELS (AMENDMENT) ACT, 1951.

[XXVI OF 1951].

AN

ACT

further to amend the Inland Steam-vessels Act, 1917.

BE it enacted by Parliament as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Inland Steam-vessels (Amendment) Act, 1951.

(2) This section and sections 2 and 9 shall come into force at once, and the remaining sections shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 1, Act 1 of 1917.**—In section 1 of the Inland Steam-vessels Act, 1917 (hereinafter referred to as the principal Act), for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

"(2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that it shall not come into force in the States of Travancore-Cochin and Madras or in that part of the State of Orissa which on the 31st day of March,

Provided that the Government of the State in which the owner ordinarily resides or carries on business, or in the case of a company the Government of the State where the principal place of business of the company is situate, has accorded its previous approval thereto.

19F. *Grant of certificate of registration.*—(1) If, in respect of any inland steam-vessel, the registering authority, after making such inquiry as it thinks fit, is satisfied that the provisions of this Act or of any rules made thereunder have been complied with, it shall grant to the applicant therefor a certificate of registration comprising such particulars as may be prescribed on payment of the prescribed fee.

(2) A registering authority may refuse to register an inland steam-vessel, if she is found to be mechanically defective, or if the applicant fails to furnish satisfactory evidence in support of any of the statements made in his application.

Provided that where the registering authority refuses to register any inland steam-vessel, it shall furnish to the applicant a statement in writing containing the reasons for such refusal.

19G. *Automatic registration of inland steam-vessels registered under the Merchant Shipping Acts.*—Where an application is made under this Act for the registration of an inland steam-vessel registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, the registering authority shall, on receipt of such application and any fee that may be prescribed, and on being furnished with satisfactory proof of the fact of such registration, grant to the applicant a certificate of registration under this Act.

19H. *Marking of inland steam-vessels.*—Where an inland steam-vessel has been registered under this Chapter, the registering authority shall assign to the vessel, to be displayed thereon conspicuously in the prescribed manner, a distinguishing mark, hereinafter in this Act referred to as the registration mark.

19I. *Prohibition against transfer of certificate of registration.*—(1) A certificate of registration granted in respect of any inland steam-vessel shall be used only for the lawful navigation of that vessel.

(2) A certificate of registration in respect of an inland steam-vessel issued by a registering authority in one State shall be valid for that State only, but where any such vessel plies in inland waters of more than one State, nothing in this section shall be deemed to require the owner or master of the vessel to obtain a fresh certificate of registration in relation to the State or States in which the vessel is not so registered:

Provided that the owner of the vessel has not ceased to reside or carry on business in the State in which the vessel was originally registered.

19J. *Registration of alterations.*—(1) When an inland steam-vessel is so altered as not to correspond with the particulars relating to her or the description entered in the certificate of registration, then the owner of the vessel shall, within such period as may be prescribed, make a report of such alteration to the registering authority of the place where the vessel is registered.

(2) The report under sub-section (1) shall be made in such form and shall contain such particulars with respect to the alteration as may be prescribed and shall be accompanied by the certificate of registration in force in respect of the vessel at the time of the report.

(3) The registering authority on receipt of the report under sub-section (1) and on payment of the prescribed fee, shall either cause the alteration to be registered or direct that the vessel be registered anew:

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 Provided that where the registering authority directs that the vessel be registered anew, it shall either grant a provisional certificate describing the vessel as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(4) Any provisional certificate granted or endorsement made under the provisions of this section shall be valid for a period of one month from the date thereof, within which period the owner shall cause all necessary steps to be taken to have the vessel registered anew.

19K. *Transfer of registry.*—(1) The registry of an inland steam-vessel may be transferred from one place in a State to another place in another State on the application by the owner or master of the vessel to the registering authority of the place where the vessel is registered.

(2) On receipt of such application, the registering authority shall transmit notice thereof to the registering authority of the intended place of registry with a copy of all particulars relating to the vessel.

(3) The certificate of registration in respect of the vessel shall be delivered up to the registering authority either of the existing or intended place of registry, and, if delivered up to the former, shall be transmitted to the registering authority of the the intended place of registry.

(4) On receipt of the documents, referred to in sub-sections (2) and (3) and the prescribed fee, if any, the registering authority of the intended place of registry shall enter in its register book all the particulars so transmitted as aforesaid and grant a fresh certificate of registration in respect of the vessel and thenceforth such vessel shall be considered as registered at the new place of registry.

19L. *Change of residence or place of business.*—(1) If the owner of an inland steam-vessel ceases to reside or carry on business at the address recorded in the certificate of registration of the vessel, he shall, within thirty days of the change of address, intimate his new address to the registering authority by which the certificate of registration was granted, or, if the new address is within the jurisdiction of another registering authority, to that registering authority, and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered thereon.

(2) Where a registering authority other than the original registering authority makes any such entry, it shall communicate the new address to the original registering authority.

19M. *Prohibition against transfer of ownership of registered vessel.*—(1) An inland steam-vessel registered under this Act in one State shall not be transferred to a person resident in another State in India or in any country outside India, without the previous approval of the Government of the State in which the vessel is registered :

Provided that where an inland steam-vessel is also registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, this sub-section shall have effect as if for the words "the Government of the State in which the vessel is registered", the words "the Central Government" had been substituted.

(2) Subject to the provisions of sub-section (1), the owner of inland steam-vessel registered under this Act and the transferee thereof shall, within thirty days of the transfer of ownership of the said vessel to the transferee, jointly make a report of the transfer to the registering authority within the local limits of whose

jurisdiction the transferee resides or carries on business and shall also forward the certificate of registration to that registering authority, together with the prescribed fee, in order that particulars of the transfer of ownership may be entered thereon.

19N. *Suspension of certificates of registration.*—(1) A registering authority may suspend, for such period and subject to such conditions as it thinks fit, the certificate of registration of an inland steam-vessel, if it has reason to believe that after the granting of the certificate the vessel has become unfit to play in inland waters.

(2) Where the registration of an inland steam-vessel is suspended under sub-section (1) for a period of not less than one month, the registering authority ordering the suspension shall, if it is not the original registering authority, inform that other authority of the fact of such suspension.

(3) The registering authority suspending the certificate may require the owner or master of the vessel to deliver up the certificate so suspended to itself or, if it is not the original registering authority, to that other authority.

(4) A certificate of registration surrendered under this section shall be returned to the owner when the order suspending the certificate has been rescinded or has ceased to operate.

19O. *Cancellation of registration.*—(1) If an inland steam-vessel has been destroyed or has been rendered permanently unfit for service, the owner of the vessel shall, with the least practicable delay, report the fact to the registering authority of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon the registering authority shall have the certificate of registration cancelled.

(2) Any registering authority may at any time require that any inland steam-vessel within the local limits of its jurisdiction may be inspected by such authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, the registering authority is satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the registering authority may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to the registering authority, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

19P. *Appeals.*—(1) Any person aggrieved by an order—

(a) refusing to register any inland steam-vessel under section 19F; or

(b) suspending a certificate of registration under section 19N; or

(c) cancelling a certificate of registration under sub-section (2) of section 19O, may, within thirty days of the date on which he receives notice of such order, appeal against it to the State Government.

(2) The State Government shall cause notice of every such appeal to be given to the registering authority concerned in such manner as may be prescribed, and after giving an opportunity to that authority and to the appellant to be heard shall pass such order thereon as it thinks fit.

19Q. *Reciprocity.*—Where the Central Government is satisfied that by the law or practice of any country outside India, inland steam-vessels having a certificate of registration in force under this Act—

(a) obtain by reason of such registration any special exemption in that country while plying in the inland waters thereof, or

(b) are required as a condition of plying in the inland waters of that country to comply with any special requirement, whether by way of registration anew or payment of a fee or otherwise,

the Central Government may, by notification in the Official Gazette, for the purpose of reciprocity, direct that the same exemption or requirement, or an exemption or a requirement as similar thereto as may be, be granted to, or imposed upon, inland steam-vessels registered in that country while plying in the inland waters of the territories to which this Act extends.

19R. *Power to make rules.*—(1) The State Government may make rules to carry out the objects of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the powers, duties and functions of registering authorities and the local limits of their jurisdiction;

(b) prescribe the form of, and the particulars to be contained in, applications for, and certificates of, registration;

(c) provide for the form and manner in which books of registration shall be maintained under this Chapter.

(d) provide for the issue of duplicate certificates of registration to replace certificates lost, destroyed or mutilated;

(e) prescribe, subject to the approval of the Central Government, the fees to be charged for the registration of inland steam-vessels or for any other action to be taken by the registering authority under this Chapter, and provide for the exemption of any person or class of persons from payment of the whole or any part of any such fees;

(f) prescribe the period within which, and the manner in which, the owner of an inland steam-vessel shall make a report of any alteration in the vessel under section 19J;

(g) prescribe the manner in which appeals to the State Government may be preferred under this Chapter and the fees payable in respect of any such appeal;

(h) provide for any other matter which is to be or may be prescribed under this Chapter."

4. Amendment of section 55, Act I of 1917.—In section 55 of the principal Act, after the word and figure "section 3", in both the places where they occur, the words, figures and letter "or section 19A" shall be inserted.

5. Amendment of section 56, Act I of 1917.—In section 56 of the principal Act, after the words and figures "as required by section 10" the words, figures and letter "or if the registration mark is not displayed as required by section 19H" shall be inserted.

6. Substitution of new section for section 57, Act I of 1917.—For section 57 of the principal Act, the following section shall be substituted, namely:—

"57. *Penalty for neglect or refusal to deliver up or surrender certificates of survey or registration.*—If the owner or master of an inland steam-vessel without reasonable cause neglects or refuses—

(a) to deliver up a certificate of survey when required under section 14 so to do; or

(b) to deliver up a certificate of registration when required under section 19N so to do : or

(c) to surrender a certificate of registration as required by section 19O, he shall be punishable with fine, which may extend to one hundred rupees."

7. Insertion of new section 63A in Act I of 1917.—After section 63 of the principal Act, the following section shall be inserted, namely :—

"63A. *General provision for punishment of offences not otherwise provided for.*—If any person contravenes any of the provisions of this Act for which no other penalty is provided in this Act, he shall be punishable with fine which may extend to two hundred rupees."

8. Amendment of section 68, Act I of 1917.—In section 68 of the principal Act, for the words and figures " Chapters II and III ", the words, figures and letter " Chapters II, IIA and III ", shall be substituted.

9. Insertion of new section 75 in Act I of 1917.—After section 74 of the principal Act, the following section shall be inserted, namely :—

"75. *Repeal and saving.*—(1) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall, on that day, stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by this Act, and any penalty incurred or proceeding commenced under such corresponding law shall be deemed to be a penalty incurred or proceeding commenced under this Act, as if this Act were in force on the day on which such thing was done, action taken, penalty incurred, or proceeding commenced."

K. V. K. SUNDARAM, Secy.

6(NOTIFICATION.

No. L.D. 679 —Legis. 4-51-32, dated Bangalore, 5th July 1951.

Ordered that the accompanying Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 (Central Act No. XL of 1951) published in the *Gazette of India*, Part II, Section 1, dated the 27th June, 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received Assent on 26th June 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE INDUSTRIAL DISPUTES (AMENDMENT AND TEMPORARY PROVISIONS) ACT, 1951 (XL OF 1951).

AN

ACT

further to amend the Industrial Disputes Act, 1947, and to make certain temporary provisions relating to pay and allowances of certain workmen.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951.

2. Interpretation.—All words and expressions used in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947) shall have the meanings assigned to them in that Act.

3. Amendment of section 7, Act XIV of 1947.—For sub-sections (2) and (3) of section 7 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following sub-sections shall be substituted, namely :—

“(2) A Tribunal shall consist of such number of independent members as the appropriate Government may think fit to appoint, and where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) Where a Tribunal consists of one member only, that member, and where it consists of two or more members, the Chairman of the Tribunal, shall be a person who—

- (a) is or has been a Judge of a High Court ; or
- (b) is or has been a district judge ; or
- (c) is qualified for appointment as a Judge of a High Court.

Provided that no appointment under this sub-section to a Tribunal shall be made of any person not qualified under clause (a) or clause (b) except with the approval of the High Court of the State in which the Tribunal has, or is intended to have, its usual seat.

(4) Where a Tribunal consists of two or more members, every such member (other than the Chairman) shall possess such qualifications as may be prescribed and where an industrial dispute affecting any banking or insurance company is referred to a Tribunal, one of such members may be a person who, in the opinion of the appropriate Government, has special knowledge of banking or insurance, as the case may be.

(5) A Tribunal, where it consists of two or more members, may act notwithstanding the casual and unforeseen absence of the Chairman or any other member, and when the Chairman or other member rejoins his office after such absence, the proceedings may be continued before the Tribunal from the stage at which he so rejoins."

4. Substitution of new section for section 8, Act XIV of 1947.—For section 8 of the principal Act, the following section shall be substituted, namely:—

"8. *Filling of vacancies.*—(1) If for any reason a vacancy occurs in the office of the Chairman or any other member of a Board, the appropriate Government shall appoint, in accordance with the provisions of sub-section (3) of section 5, another person to fill the vacancy and the proceedings may be continued before the Board so reconstituted from the stage at which the vacancy is filled.

(2) If for any reason a vacancy occurs in the office of the Chairman or any other member of a Court or Tribunal, the appropriate Government shall, in the case of a Chairman, and may, in the case of any other member, appoint another independent person, in accordance with the provisions of section 6 or section 7, as the case may be, to fill the vacancy, and the proceedings may be continued before, the Court or the Tribunal so reconstituted from the stage at which the vacancy is filled."

5. Amendment of section 9, Act XIV of 1947.—Section 9 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered; the following sub-section shall be inserted, namely:—

"(2) Where the report of any settlement arrived at in the course of the conciliation proceedings before a Board or the award of a Tribunal consisting of two or more members is signed by the Chairman and all the other members of the Board or the Tribunal, as the case may be, no such settlement or award shall be invalid by reason only of the casual and unforeseen absence of any of the members (including the Chairman) of the Board or the Tribunal, as the case may be, during any stage of the hearing of the proceedings."

6. Amendment of section 13, Act XIV of 1947.—In sub-section (5) of section 13 of the principal Act, for the words "of the notice under section 22", the words "on which the dispute was referred to it" shall be substituted.

7. Temporary provisions relating to scales of pay, etc., of workmen in banking companies.—(1) No employer in relation to any banking company carrying on business in any Part A State or the State of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall, save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) alter, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been

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paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April, 1951; or

(b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances.

Explanation.—For the purposes of this section, “allowances” mean any dearness allowance, house-rent allowance, halting allowance, washing allowance, hill allowance, fuel allowance and officiating allowance (so long as the workman holds the officiating appointment) and includes any special pay or allowance paid to a workman on the ground of special qualifications, skill or responsibility attaching to, or required in respect of, his work or office and also includes the special pay or allowance given to—

- (i) graduates,
- (ii) holders of banking diplomas like C.A.I.I.B. and C.A.I.B.,
- (iii) comptists,
- (iv) stenographers,
- (v) cashiers,
- (vi) supervisors,
- (vii) sub-accountants,
- (viii) clerks-in-charge,
- (ix) departmental-in-charge,
- (x) headclerks, and
- (xi) certain categories of subordinate staff.

(2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947).

8. Recovery of money due from an employer.—Any money due from an employer under the provisions of section 7 may be recovered in the same manner as an arrear of land revenue or as a public demand by the appropriate Government either on its own motion or on an application made to it by the persons entitled to such money.

K. V. K. SUNDARAM,

Secretary to Government of India.

NOTIFICATION. 69

[No. L.D. 681—Legis. 4-51-33, dated Bangalore, 6th July 1951.]

Ordered that the accompanying Indian Boilers (Amendment) Act, 1951 (Central Act No. XXXVIII of 1951) published in the *Gazette, of India*, Part II, Section 1, dated the 25th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

Received Assent on 25th June 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE INDIAN BOILERS (AMENDMENT) ACT, 1951 (XXXVIII OF 1951)

AN

ACT

further to amend the Indian Boilers Act, 1923.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Indian Boilers (Amendment) Act, 1951.

2. **Amendment of section 3, Act V of 1923.**—For clause (b) of sub-section (1) of section 3 of the Indian Boilers Act, 1923, the following clause shall be substituted, namely :—

“(b) belonging to, or under the control of, the Army, Navy or Air Force; or”.

K. V. K. SUNDARAM,
Secretary to Government of India.

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NOTIFICATION.

[No. L.D. 682—Legis. 4-51-34, dated Bangalore, the 6th July 1951.]

Ordered that the accompanying Marking of Heavy Packages Act, 1951 (Central Act No. XXXIX of 1951) published in the *Gazette of India*, Part II, Section 1, dated the 26th June 1951, be re-published in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received assent on 25th June 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE MARKING OF HEAVY PACKAGES ACT 1951
(XXXIX of 1951).

AN

ACT

to give effect to the International Convention drawn up in Geneva on the 30th day of May, 1929, for the marking of weight on heavy packages transported by sea or inland water-ways.

BE it enacted by Parliament as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Marking of Heavy Packages Act, 1951.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “heavy package” means a package or other object weighing not less than one metric ton, which is equal to one thousand kilogrammes or 2204·6 standard pounds or 26·8 standard maunds ;

(b) “inland water-way” means any canal, river, lake or other navigable water in India.

3. Obligation to mark weight on heavy packages.—Every person consigning a heavy package for transport by sea or inland water-way from any place in India shall have marked thereon plainly, durably and conspicuously the gross weight of the packages.

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Provided that in cases or circumstances specified by rules made under this Act where it is difficult to determine the correct weight, only the approximate weight may be so marked.

4. Penalty.—(1) If any person contravenes the provisions of section 3, he shall be punishable with fine which may extend to five hundred rupees.

(2) If the person contravening the said provisions is a company or other body corporate, every managing director, manager or secretary thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

5. Power to make rules.—The Central Government may by notification in the Official Gazette, make rules—

- (a) specifying the conditions as to the manner of marking of all heavy packages, the manner of packing and the type of covering to be used;
- (b) specifying the cases or circumstances in which the approximate weight of heavy packages instead of their correct weight may be marked.

K. V. K. SUNDARAM,
Secretary to Government of India.

PART IV

Section—1-C. 67

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 2829—Legis. 4-50-93, dated Bangalore, 19th December 1950.

Ordered that the accompanying Part B States (Taxation concessions) Order, 1950 (S.R.O. 998) and Taxation Laws (Part B States (Removal of Difficulties) Order, 1950 (S.R.O. 999) of Ministry of Finance, published in the *Gazette of India*, Part II, Section 3, dated the 2nd December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja

B. S. PUTTASWAMY,

*Legal Remembrancer and
Secretary to Government,
Law Department*

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Ministry of Finance (Revenue and Expenditure Department).

ORDER

New Delhi, the 2nd December 1950.

S. R. O. 998.—The following Order made by the Central Government is published for general information:—

THE PART B STATES (TAXATION CONCESSIONS) ORDER, 1950.

In exercise of the powers conferred by Section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to make the exemptions, reductions in rate of tax and the modifications specified in this Order.

2. *Short title.*—This Order may be cited as the Part B States (Taxation Concessions) Order, 1950.

3. *Definitions.*—In this Order—

- (i) the 'Act' means the Indian Income-tax Act, 1922, (XI of 1922);
- (ii) 'appointed day' means—
 - (a) in relation to all Part B States other than the State of Patiala and East Punjab States Union, the 1st day of April 1950, and
 - (b) in relation to the State of Patiala and East Punjab States Union, the 13th day of April 1950;
- (iii) the expression 'Indian rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable in the taxable territories on the total income for the year in question in accordance with the rates prescribed by the relevant Finance Act of the Central Government, by the amount of such total income;
- (iv) 'State' means any Part B State other than the State of Jammu and Kashmir;
- (v) the expression 'State rate of tax' means the rate determined by dividing the amount of income-tax and super-tax payable on the total income according to the rates of tax in force in the State immediately before the appointed day, or for the year in question, as the case may be, by the amount of such total income and where under any State Law, the rates of tax in force in the State are prescribed with reference to the total income including agricultural income, the State rate of tax shall be the rate determined by dividing the amount of income-tax and super-tax on the total income including the agricultural income without taking into account any reduction of tax allowed on the agricultural income by the State law by the amount of such total income;

EXPLANATION.—Where there was no State law relating to charge of income-tax and super-tax, the rates of income-tax and super-tax in force in that State immediately before the appointed day shall, for the purposes of this clause, be deemed to be the rates specified in the Schedule;

- (vi) the expression 'State law' means any law relating to income-tax or super-tax in force in the State immediately before the appointed day;
- (vii) the expression 'taxable territories' shall have the same meaning as is assigned to it by clause (14A) of section 2 of the Act.

4. *Scope of the main concessions.*—(1) The provisions of paragraphs 5, 6, sub-paragraph (1) of paragraphs 11, 12 and 13 of this Order shall apply—

- (i) in the case of an assessee who has been assessed or is assessable in the taxable territories as resident for three out of the six years of assessment commencing on the 1st day of April, 1944, and ending on the 31st day of March, 1950, to so much of the income, profits and gains included in his total income as would, had the assessee been resident also in the relevant previous year in the taxable territories other than Part B States, have been exempt under clause (c) of sub-section (2) of section 14 of the Act, if it had not been extended to Part B States.
- (ii) in the case of an assessee who is resident in the previous year in the taxable territories other than Part B States, to so much of the income, profits and gains included in his total income as would have been exempt under clause (c) of sub-section (2) of section 14 of the Act if it had not been extended to Part B States.
- (iii) in the case of any other assessee who is not resident in the previous year in the taxable territories or in the taxable territories other than Part B States, to so much of the income, profits and gains included in his total income as accrue or arise in any Part B State and are not deemed to accrue or arise, or are not received or deemed to be received within the meaning of clause (a) of sub-section (1) of section 4 of the Act, in the taxable territories other than the Part B States.

(2) The provisions of this Order shall not apply to the income chargeable under the head 'Salaries' which is payable on or after the appointed day—

- (a) by the Central Government or the Government of a Part A State to a person who was an employee of that Government immediately before the appointed day; or
- (b) by the Government of a Part B State to a person whose services have been lent to that Government by the Central Government or the Government of a Part A State.

5. *Income of a previous year chargeable in the Part B State in 1949-50.*—(1) The income, profits and gains of any previous year ending after the 31st day of March, 1949, which is a previous year for the State assessment year 1949-50, shall be assessed under the Act for the year ending on the 31st day of March, 1951, if and only if, such income, profits and gains have not, before the appointed day, been assessed under the State law.

(2) Where the income, profits and gains referred to in sub-paragraph (1) have not been assessed under the State law, they shall be assessed under the Act for the year ending on the 31st day of March, 1951, and the tax payable thereon shall be determined as hereunder—

- (i) the tax on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax;
- (ii) the amount of such income, profits and gains shall be computed under the State law and the tax thereon computed at the State rate of tax in force immediately before the appointed day;
- (iii) the amount, if any, by which the tax computed under clause (i) exceeds the tax computed under clause (ii) shall be allowed as rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable:

Provided that in the case of an assessee referred to in clause (i) or clause (ii) of sub-paragraph 1 of paragraph 4 of this Order, if the whole or part of such income, profits or gains on which rebate is due or has been allowed under this paragraph—

(a) are brought into or received in the taxable territories other than Part B States in any subsequent year in which the assessee is resident, the rebate already allowed appropriate to the amount so brought or received shall be recovered in addition to the tax payable on the total income of that year;

(b) are brought into or received in any Part B State other than the State in which they accrued or arose, then—

(i) if they are so brought or received in the same previous year in which they accrued or arose, they shall be charged to tax as if they had accrued or arisen in the Part B State; and

(ii) if they are so brought or received in any subsequent year in which the assessee is resident, and if the rate at which the tax is payable by the assessee on his total income of that year is higher than the rate at which such profits had actually borne tax (after allowance of the rebate), there shall be recovered, in addition to the tax payable on his total income of that year, an amount equal to the tax on such profits at the rate representing the difference between the said two rates.

(3) In this paragraph the State assessment year 1949-50 means the assessment year which commences on any date between the 1st April 1949, and the 31st December 1949.

6. *Income of a previous year which does not fall under paragraph 5.*—The income, profits and gains of any previous year ending after the 31st day of March 1949, which does not fall within paragraph five of this Order shall be assessed under the Act for the year ending on the 31st day of March 1951, and the tax payable thereon shall be determined as hereunder:

In respect of so much of the income, profits and gains included in the total income as accrue or arise in any State other than the States of Patiala and East Punjab States Union and Travancore-Cochin—

(i) the tax shall be computed (a) at the Indian rate of tax and (b) at the State rate of tax in force immediately before the appointed day;

(ii) where the amount of tax computed under sub-clause (a) of clause (i) is less than or is equal to the amount of tax computed under sub-clause (b) of clause (i), the amount of the first mentioned tax shall be the tax payable;

(iii) where the amount of tax computed under sub-clause (a) of clause (i) exceeds the tax computed under sub-clause (b) of clause (i), the excess shall be allowed as a rebate from the first mentioned tax and the amount of the first mentioned tax as so reduced shall be the tax payable:

Provided that where the previous year falls partly before and partly on or after the 1st day of April, 1949, the tax payable under clause (ii) or (iii), as the case may be, in respect of so much of the income, profits and gains as accrue or arise in the State of Madhyabharat or Rajasthan, shall be reduced further by an amount equal to such proportion of the tax payable as the period falling before that day bears to the whole period of the previous year:

Provided further that in the case of an assessee referred to in clause (i) or clause (ii) of sub-paragraph 1 of paragraph 4 of this Order, if the whole or part of

such income, profits or gains on which rebate is due or has been allowed under this paragraph—

- (a) are brought into or received in the taxable territories other than Part B States in any subsequent year in which the assessee is resident, the rebate already allowed appropriate to the amount so brought or received shall be recovered in addition to the tax payable on the total income of that year;
- (b) are brought into or received in any Part B State other than the State in which they accrued or arose, then—
 - (i) if they are so brought or received in the same previous year in which they accrued or arose, they shall be charged to tax as if they had accrued or arisen in that Part B State; and
 - (ii) If they are so brought or received in any subsequent year in which the assessee is resident, and if the rate at which the tax is payable by the assessee on his total income of that year is higher than the rate at which such profits had actually borne tax (after allowance of the rebate), there shall be recovered, in addition to the tax payable on his total income of that year, an amount equal to the tax on such profits at the rate representing the difference between the said two rates.

7. *Income accruing or arising without the taxable territories.*—The income, profits and gains which accrue or arise without the taxable territories and are not deemed to accrue or arise, or are not received or deemed to be received within the meaning of clause (a) of sub-section (1) of section 4 of the Act, in the taxable territories, shall, in the case of an assessee referred to in clause (iii) of sub-paragraph (1) of paragraph 4 of this Order, be, charged to tax for the year ending on the 31st day of March 1951, in the same manner and to the same extent as is specified in paragraph five or six of this Order, as the case may be.

8. *Remittances out of earlier foreign profits.*—The income, profits and gains which accrued or arose outside India before the beginning of the previous year for the assessment for the year ending on the 31st day of March 1951, to an assessee referred in clause (iii) of sub-paragraph (1) of paragraph 4 of this Order, shall not be included in his total income of the previous year, in which such income, profits and gains are brought into or received in the taxable territories if they are so brought into or received before the 1st day of April 1952.

9. *Double Income-tax relief.*—(1) Where before the appointed day and income has been assessed in any State and also in the taxable territories other than the State, double income-tax relief which would have been admissible under the Income-tax (Double Taxation Relief) (Indian States) Rules, 1939, and in the State under the corresponding Rules shall be allowed.

(2) Where, before the appointed day any income has been assessed in any State or in the taxable territories other than the State, and the whole or part of such income is also assessable in taxable territories or the State, as the case may be, the tax payable in respect of the assessment to be made shall be reduced by the amount of double income-tax relief, which would have been allowable in accordance with sub-paragraph (1).

10. *Remittances of earlier profits.*—(1) Notwithstanding anything contained in Explanation 4 to sub-section (1) of section 4 of the Act, the income, profits and gains brought into or received after the appointed day, in any part of the taxable territories other than the State, shall not be charged to tax as income of the previous year in which they are so brought or received except where—

- (i) the assessee is a person who has been assessed or is assessable in the taxable territories as resident for three out of the six years of

assessment commencing on the 1st day of April 1944, and ending on the 31st day of March 1950 ; and

(ii) such income, profits and gains—

(a) being assessable to any tax on income in the State had not been so assessed ; or

(b) being liable to be included in the taxable territories in the 'total income' of the relevant year under the provisions of the Act had not been so included.

(2) Where the income, profits and gains referred to in sub-paragraph (1) are chargeable as the income of the previous year, in accordance with the provisions of that sub-paragraph, the tax payable thereon shall be determined as hereunder—

(i) the tax payable on the amount of such income, profits and gains included in the total income shall be computed at the Indian rate of tax ;

(ii) the tax payable in the State in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the State rate of tax ;

(iii) the tax payable in the taxable territories in the relevant year in which such income, profits and gains were assessable shall, if not already assessed, be computed at the Indian rate of tax ;

(iv) the sum of the taxes payable under clauses (ii) and (iii) shall be reduced by the amount of the double income-tax relief, if any, which would have been allowable in accordance with sub-paragraph (1) of paragraph 9 ;

(v) the amount by which the tax computed under clause (i) exceeds the tax computed under clause (iv) shall be allowed as a rebate from the first mentioned tax, and the amount of the first mentioned tax as so reduced shall be the tax payable.

11. *Salaries*.—(1) Where the total income of an assessee, not being a company, includes any income chargeable under the head 'Salaries' which was paid before the appointed day for services rendered in a State in which there was no law relating to the charge of income-tax and super-tax, no tax shall be payable by the assessee on the amount of such inclusion.

(2) In the case of an assessee who before the appointed day was an employee of the Government of a State and whose services on or after the appointed day have been taken over or transferred to the Central Government or the Government of a Part A State, then irrespective of place of his employment, the tax on his income chargeable under the head 'Salaries' shall, in the year beginning on the 1st day of April, 1950, be deducted under sub-section (2) of section 18 of the Act, at the State rate of tax in force in the State in which he was employed immediately before the appointed day, if—

(i) he is not an employee of the Railway Department, and

(ii) the salary paid to him is based on the rates of pay and allowances which would have been applicable to him had he continued to be in the employment of the Government of the State.

12. *Dividends*.—Where the total income of an assessee chargeable to tax for the assessment for the year ending on the 31st day of March, 1951, includes any income from dividends paid by a company registered in a State in which there was no State Law relating to the charge of income-tax and super-tax and the dividend is paid out of profits which were not liable to be taxed, in whole or in part, either in the State or in the taxable territories, no income-tax shall be payable by the assessee on such proportion of the dividend as the non-taxable profits of the company arising in the State bear to the total income of the company.

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13. *Advance payment of tax.*—The provisions of section 18A of the Act shall operate before the 1st day of April 1951, in respect of any income accruing or arising in any State unless the State Law contained a provision corresponding thereto.

(2) Where the provisions of section 18A of the Act are applicable, the expression 'latest previous year in respect of which he has been assessed' in clause (1) of the said section shall be deemed to mean the latest previous year in respect of which the assessee has been assessed either in the State or the taxable territories or in both, as the case may be :

Provided that where the income of the latest previous year in respect of which a person has been assessed in the State and in the taxable territories is to be taken in aggregate for the purposes of this paragraph, so much of such income as has been included in both the assessments shall be excluded from the aggregate.

14. *Requiring distribution of dividends by private Companies.*—The provisions of section 23A of the Act, shall not be applied in respect of the profits and gains of the latest previous year ending before the appointed day unless the State Law contained a provision corresponding thereto.

15. *Exemptions.*—Any income falling within the following classes shall be exempt from income-tax and super-tax and shall not be included in the total income or total world income of the person receiving them :

- (i) Any sum which the widow or the mother of a person who was the Ruler of an Indian State receives as her maintenance allowance out of public revenues ;

Provided that in the case of the widow or the mother who, in any of the three years ending before the 1st day of April 1950, was chargeable to tax as resident in the taxable territories (other than the State), the said sum shall be exempt *only if* it is received by her in the State and is not brought into or received in any part of the taxable territories other than the State.

- (ii) Any pension paid out of public revenues which a person receives as the sub-ordinate Chief of a person who was the Ruler of an Indian State, where such pension was payable to him in that capacity by the said Ruler immediately before the appointed day.
- (iii) The *bona fide* annual value of the residential palace of the Ruler of a State which is situate within the State and is declared by the Central Government as his inalienable ancestral property.

16. *Concessions to Industrial Undertakings.*—(1) Where any industrial undertaking situated in any State claims that it has been granted any exemption from or concession in respect of income-tax or super-tax by the Ruler of an Indian State who was enjoying such exemption or concession immediately before the appointed day, it shall submit an application to the Commissioner of Income-tax giving the following particulars :—

1. Name of the industrial undertaking.
2. Status (*i.e.* whether public or private company, firm, individual or Hindu undivided family).
3. Nature of the business.
4. Date of commencement of the business.
5. Nature of the concessions granted.
6. Period for which concessions granted.
7. Unexpired period of the concessions after the appointed day.

(2) Every such application shall be accompanied by the orders in original of the Indian State granting the concession, together with a certified copy of the order.

(3) The Commissioner shall, after obtaining such other information as he may require, forward the application to the Central Government which, having regard to all the circumstances of the case, may grant such relief, if any, as it thinks appropriate.

THE SCHEDULE

[See explanation to paragraph 3(v)]

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this part applies.

	<i>Rate</i>
1. On the first Rs. 2,000 of total income ...	Nil
2. On the next Rs. 3,000 of total income ...	2 pies in the rupee.
3. On the next Rs. 5,000 of total income ...	4 pies in the rupee.
4. On the next Rs. 5,000 of total income ...	9 pies in the rupee.
5. On the balance of total income ...	16 pies in the rupee.

Provided that—

(1) No income-tax shall be payable on total income which does not exceed Rs. 5,000.

(2) The income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 5,000.

B. In the case of every Company on the whole of total income. 16 pies in the rupee.

PART II.

Rates of Super-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this part applies :—

	<i>Rate.</i>
1. On the first Rs. 30,000 of total income ...	Nil.
2. On the next Rs. 10,000 of total income ...	1 anna in the rupee.
3. On the next Rs. 30,000 of the total income ...	1 and a half annas in the rupee.
4. On the next Rs. 30,000 of total income ...	2 annas in the rupee.
5. On the next Rs. 50,000 of total income ...	2 and a half annas in the rupee.
6. On the balance of total income ...	3 annas in the rupee.

B. In the case of every Company :— 78

Rate.

On the whole of total income—

- | | |
|---|-----------------------------|
| 1. If the income does not exceed Rs. 25,000 on the whole of the total income. | One half anna in the rupee. |
| 2. If the income exceeds Rs. 25,000 on the whole of the total income. | 1 anna in the rupee. |

Provided that a rebate at the rate of 2 pies and 4 pies per rupee respectively of the total income shall be allowed in the case of any company which, in respect of its profits liable to tax for the year ending 31st day of March 1951 and 1952 has made the prescribed arrangements for the declaration and payment in the State concerned of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the Act.

[No. 136-IT.]

S.R.O. 999.—The following Order made by the Central Government is published for general information :—

TAXATION LAWS (PART B STATES) REMOVAL OF DIFFICULTIES ORDER, 1950.

WHEREAS certain difficulties have arisen in giving effect to the provisions of the Indian Income-tax Act, 1922 (XI of 1922), and the payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), in Part B States.

NOW, THEREFORE, in exercise of the powers conferred by section 12 of the Finance Act, 1950, and section 5 of the Opium and Revenue Laws (Extension of Application) Act, 1950, the Central Government is pleased to make the following order namely :—

1. This Order may be cited as the Taxation Laws (Part B States) (Removal of Difficulties) Order, 1950.

2. *Computation of aggregate depreciation allowance and the written-down-value.*—In making any assessment under the Indian Income-tax Act, 1922, all depreciation actually allowed under any laws or rules of a Part B State relating to income-tax and super-tax, or any law relating to tax on profits of business, shall be taken into account in computing the aggregate depreciation allowance referred to in sub-clause (c) of the proviso to clause (vi) of sub-section 2, and the written-down-value under clause (b) of sub-section 5, of section 10 of the said Act :

Provided that where in respect of any asset, depreciation has been allowed for any year both in the assessment made in the Part B State and in the taxable territories, the greater of the two sums allowed shall only be taken into account.

3. *Carry-forward and set-off of previous losses.*—Where in any previous year prior to the previous year for the assessment for the year ending on the 31st day of March, 1950, an assessee has sustained a loss of profits or gains in any business, profession or vocation carried on by him, and such loss would, had the State law continued to be in force, have been set off against the profits and gains, if any, from the same business chargeable to tax in the said year of assessment or in any year subsequent thereto, such loss would be so set off in the same manner, to the same extent, and up to the same year of assessment as it would have been set off had the State law continued to be in force.

4. *Treatment of property transferred in a Part B State before payment of taxes.*—Section 4 of the Payment of Taxes (Transfer of Property) Act, 1949, (XXII of 1949) shall not apply in relation to any property situate in a Part B State which had been transferred before the 1st day of April, 1950, unless there was in the State any law corresponding thereto.

[No. 1371T.]

P. C. PADHI,

Addl. Secretary.

NOTIFICATION. 77

No. L. D. 2588—Legis. 4-50-76, dated Bangalore, 6th December 1950.

Ordered that the accompanying Notification No. S.R.O. 776, dated the 14th October 1950 of the Ministry of Labour—The Minimum Wages (Central) Rules, 1950 published in the *Gazette of India*, Part II, Section 3, dated the 14th October 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LABOUR.

New Delhi, the 14th October 1950.

S.R.O. 776.—In exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government is pleased to make the following rules, the same having been previously published as required by the said section, namely:—

RULES

CHAPTER I.

PRELIMINARY.

1. *Short title and extent.*—These rules may be called the Minimum Wages (Central) Rules, 1950.

2. *Interpretation.*—In these rules, unless the context otherwise requires—

(a) 'Act' means the Minimum Wages Act, 1948;

(b) 'advisory committee' means an advisory committee appointed under section 6 and includes an advisory sub-committee appointed under that section;

(c) 'Authority' means the authority appointed under sub-section (1) of Section 20;

(d) 'Board' means the Advisory Board appointed under section 7;

(e) 'Chairman' means the Chairman of the Advisory Board, the Committee or the Advisory Committee, as the case may be, appointed under Section 9;

(f) 'committee' means a Committee appointed under clause (a) of sub-section (1) of section 5 and includes a sub-committee appointed under that Section;

(g) 'form' means a form appended to these rules;

(h) 'Inspector' means a person appointed as Inspector under section 19;

(i) 'registered trade union' means a trade union registered under the Indian Trade Union Act, 1926;

(j) 'section' means a section of the Act; and

(k) All other words and expressions used herein and not defined shall have the meaning respectively assigned to them under the Act.

CHAPTER II.

MEMBERS AND STAFF, AND MEETINGS OF THE BOARD, COMMITTEE AND ADVISORY COMMITTEE.

3. *Term of office of the members of the Committee and the Advisory Committee.*—The term of office of the members of the Committee or an Advisory Committee shall be such as in the opinion of the Central Government is necessary for completing the enquiry into the scheduled employment concerned and the Central Government may, at the time of the constitution of the Committee or an Advisory Committee, as the case may be, fix such terms and may, from time to time, extend it as circumstances may require.

4. *Term of office of members of the Board.*—(1) Save as otherwise expressly provided in these rules, the term of office of a non-official member of the Board, shall be two years commencing from the date of his nomination:

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Provided that such member shall, notwithstanding the expiry of the said period of two years, continue to hold office until his successor is nominated.

(2) A non-official member of the Board nominated to fill a casual vacancy shall hold office for the remaining period of the term of office of the member in whose place he is nominated.

(3) The official members of the Board shall hold office during the pleasure of the Central Government.

(5) *Travelling allowance.*—A non-official member of the Committee, an Advisory Committee or the Board shall be entitled to draw travelling and halting allowances for any journey performed by him in connection with his duties as such member at the rates and subject to the conditions applicable to a Government servant of the first class under the appropriate rules of the Central Government.

6. *Staff.*—(1) The Central Government may appoint a Secretary to the Committee, an Advisory Committee or the Board, and such other staff as it may think necessary, and may fix the salaries and allowances payable to them and specify their conditions of service.

(2) (i) The Secretary shall be the Chief Executive Officer of the Committee, the Advisory Committee or the Board, as the case may be. He may attend the meetings of such Committee, Advisory Committee or Board but shall not be entitled to vote at such meetings.

(ii) The Secretary shall assist the Chairman in convening meetings and shall keep a record of the minutes of such meetings and shall take necessary measures to carry out the decisions of the Committee, the Advisory Committee or the Board, as the case may be.

7. *Eligibility for renomination of the members of the Committee, Advisory Committee and the Board.*—An out-going member shall be eligible for renomination for the membership of the Committee, Advisory Committee or the Board, of which he was a member.

8. *Resignation of the Chairman and Members of the Committee, Advisory Committee and the Board and filling of casual vacancies.*—(1) A member of the Committee, Advisory Committee or the Board other than the Chairman may, by giving notice in writing to the Chairman, resign his membership.

(2) The Chairman may resign by letter addressed to the Central Government.

(3) When a vacancy occurs or is likely to occur in the membership of the Committee, Advisory Committee or the Board, the Chairman shall submit a report to the Central Government immediately. The Central Government shall then take steps to fill vacancy.

9. *Cessation and restoration of membership.*—(1) If a member of the Committee, Advisory Committee or the Board fails to attend three consecutive meetings, he shall subject to the provisions of sub-rule (2), cease to be a member thereof.

(2) A person, who ceases to be a member under sub-rule (1) shall be given intimation of such cessation by a letter sent to him by registered post within fifteen days from the date of such cessation. The letter shall indicate that if he desires restoration of his membership, he may apply therefor within thirty days from the receipt of such letter. The application for restoration of membership, if received within the said period, shall be placed before the Committee, the Advisory Committee or the Board, as the case may be, and if a majority of members present at the next meeting is satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

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10. *Disqualification.*—(1) A person shall be disqualified for being nominated as, and for being a member of the Committee, Advisory Committee or the Board, as the case may be,—

- (i) if he is declared to be of unsound mind by a competent court ; or
- (ii) if he is an undischarged insolvent ; or
- (iii) if before or after the commencement of the Act, he has been convicted of an offence involving moral turpitude.

(2) If any question arises whether a disqualification has been incurred under sub-rule (1) the decision of the Central Government thereon shall be final.

11. *Meetings.*—The Chairman may, subject to the provisions of rule 12, call a meeting of the Committee, Advisory Committee or the Board, as the case may be, at any time he thinks fit :

Provided that on a requisition in writing from not less than one-half of the members the Chairman shall call a meeting within fifteen days from the date of the receipt of such requisition.

12. *Notice of meetings.*—The Chairman shall fix the date, time and place of every meeting, and a notice in writing containing the aforesaid particulars along with a list of business to be conducted at the meeting shall be sent to each member by registered post at least fifteen days before the date fixed for such meeting :

Provided that in the case of an emergent meeting, notice of seven days only may be given to every member.

13. *Chairman.*—(1) The Chairman shall preside at the meetings of the Committee, Advisory Committee or the Board, as the case may be.

(2) In the absence of the Chairman at any meeting the members shall elect from amongst themselves by a majority of votes, a member, who shall preside at such meeting.

14. *Quorum.*—No business shall be transacted at any meeting unless at least one-third of the members are present :

Provided that if at any meeting less than one-third of the members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members present.

15. *Disposal of business.*—All business shall be considered at a meeting of the Committee, Advisory Committee or the Board, as the case may be, and shall be decided by a majority of the votes of the members present and voting. In the event of an equality of votes the Chairman shall have a casting vote :

Provided that the Chairman may, if he thinks fit, direct that any matter shall be decided by the circulation of necessary papers and by securing written opinion of the members :

Provided further that no decision on any matter under the preceding proviso shall be taken, unless supported by not less than a two-thirds majority of the members.

16. *Method of voting.*—Voting shall ordinarily be by show of hands, but if any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may decide.

17. *Proceedings of the meeting.*—(1) The proceedings of each meeting showing *inter alia* the names of the members present thereat shall be forwarded to each member and to the Central Government as soon after the meeting as possible and in any case, not less than seven days before the next meeting.

(2) The proceedings of each meeting shall be confirmed with such modifications, if any, as may be considered necessary at the next meeting.

CHAPTER III.

SUMMONING OF WITNESS BY THE COMMITTEE, ADVISORY COMMITTEE AND THE BOARD AND PRODUCTION OF DOCUMENTS.

18. *Summoning of witnesses and production of documents.*—(1) A Committee, Advisory Committee or the Board may summon any person to appear as a witness in the course of an enquiry. Such summons may require a witness to appear before it on a date specified therein and to produce any books, papers or other documents and things in his possession or under his control relating in any manner to the enquiry.

(2) A summons under sub-rule (1) may be addressed to an individual or an organisation of employers or a registered trade union of workers.

(3) A summons under this rule may be served—

(i) in the case of an individual, by being delivered or sent to him by registered post ;

(ii) in the case of an employer's organisation or a registered trade union of workers, by being delivered or sent by registered post to the secretary or other principal officer of the organisation or union, as the case may be.

(4) The provision of the Code of Civil Procedure, 1908, relating to the summoning and enforcement of the appearance of witnesses and the production of documents shall, so far as may be, apply to proceedings before a Committee, Advisory Committee or the Board.

19. *Expenses of witnesses.*—Every person who is summoned and appears as a witness before the Committee, the Advisory Committee or the Board shall be entitled to an allowance for expenses incurred by him in accordance with the scale for the time being in force for payment of such allowances to witnesses appearing in civil courts in the State.

CHAPTER IV.

COMPUTATION AND PAYMENT OF WAGES, HOURS OF WORK AND HOLIDAYS.

20. *Mode of computation of the cash value of wages.*—The retail prices at the nearest market shall be taken into account in computing the cash value of wages paid in kind and of essential commodities supplied at concession rates. This computation shall be made in accordance with such directions as may be issued by the Central Government from time to time.

21. *Time and conditions of payment of wages and the deductions permissible from wages.*—(1) (i) The wage period with respect to any scheduled employment for which wages have been fixed shall not exceed one month and the wages of a worker in such employment shall be paid.

(a) in the case of establishments in which less than one thousand persons are employed before the expiry of the seventh day, and

(b) in the case of other establishments before the expiry of the tenth day, after the last day of the wage period in respect of which the wages are payable.

(ii) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day after the day on which his employment is terminated.

(iii) The wages of an employed person shall be paid to him without deduction of any kind except those authorised by or under these rules.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of these rules, be deemed to be a deduction from wages.

(2) Deductions from the wages of a person employed in a scheduled employment shall be of one or more of the following kinds, namely :—

- (i) fines ;
- (ii) deductions for absence from duty ;
- (iii) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default ;
- (iv) deductions for house accommodation supplied by the employer ;
- (v) deductions for such amenities and services supplied by the employer as the Central Government, may by general or special order authorise.

Explanation.—The words ‘ amenities and services ’ in this clause does not include the supply of tools and protectives required for the purposes of employment ;

- (vi) deductions for recovery of advances or for adjustment of over-payments of wages :

Provided that such advances do not exceed an amount equal to wages for two calendar months of the employed person and, in no case, shall the monthly instalment of deduction exceed one-fourth of the wages earned in that month ;

- (vii) deductions of income-tax payable by the employed person ;
- (viii) deductions required to be made by order of a court or other competent authority ;
- (ix) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Fund Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income Tax Act, 1922, or any provident fund approved in this behalf by the Central Government during the continuance of such approval ;
- (x) deductions for payment to co-operative societies or to a scheme of insurance approved by the Central Government.

(3) Any person desiring to impose a fine on an employed person or to make a deduction for damage or loss caused by him shall explain to him personally and also in writing the act or omission or the damage or loss, in respect of which the fine or deduction is proposed to be imposed or made and give him an opportunity to offer any explanation in the presence of another person. The amount of the said fine or deduction shall also be intimated to him.

(4) The amount of fine or deduction mentioned in sub-rule (3) shall be such as may be specified by the Central Government. All such deductions, and all realisation thereof shall be recorded in a register maintained in form I, II and III, as the case may be. A return in form III shall be submitted annually by the employer.

(5) The amount of fine imposed under sub-rule (3) shall be utilised in accordance with the directions of the Central Government.

(6) Nothing in this rule shall be deemed to affect the provisions of the Payment of Wages Act, 1936.

22. *Publicity to the minimum wage fixed under the Act.*—Notices containing the minimum rates of wages fixed together with extracts from the Act, the rules made thereunder and the name and address of the Inspector shall be displayed in English and in a language understood by the majority of the workers in the

employment at such place as may be selected by the Inspector and shall be maintained in a clean and legible condition. Such notices shall also be displayed on the notice boards of all Sub-Divisional and District Offices.

23. *Weekly Holidays.*—(1) Unless otherwise permitted by the Central Government, no worker shall be required or allowed to work in a scheduled employment, on the first day of the week (hereinafter referred to as the said day) except when he has or will have a holiday for the whole day on one of the five days immediately before or after the said day for which he shall receive payment equal to his average daily wages during the preceding week:

Provided that the weekly holiday may be substituted by another day:

Provided further that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Where in accordance with the provision of sub-rule (1) any worker works on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall, for the purposes of calculating his weekly hours of work, be included in the preceding week.

Explanation.—For the purposes of this rule 'week' shall mean a period of seven days beginning at midnight on Saturday night.

24. *Number of hours of work which shall constitute a normal-working day.*—

(1) The number of hours which shall constitute a normal working day shall be—

(a) in the case of an adult, 9 hours;

(b) in the case of a child, $4\frac{1}{2}$ hours.

(2) The working day of an adult worker shall be so arranged that inclusive of the intervals for rest, if any, it shall not spread over more than twelve hours on any day.

(3) The number of hours of work in the case of an adolescent shall be the same as that of an adult or a child according as he is certified to work as an adult or a child by a competent medical practitioner approved by the Central Government.

(4) The provisions of sub-rules (1) to (3) shall, in the case of workers in Agricultural employment, be subject to such modifications as may, from time to time, be notified by the Central Government.

25. *Extra wages for overtime.*—(1) When a worker works in an employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages,

(a) in the case of employment in Agriculture, at one and a half time the ordinary rate of wages;

(b) in the case of any other scheduled employment, at double the ordinary rate of wages.

Explanation.—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

(2) A register showing overtime payments shall be kept in form IV.

26. *Form of registers and records.*—(1) A Register of Wages shall be maintained by every employer and kept in such form as may be notified by the Central Government and shall include the following particulars:

(a) The Minimum rates of wages payable to each person employed;

(b) The number of days for which each employed person worked overtime for each wage period;

- (c) The gross wages of each person employed for each wage period ;
- (d) All deductions made from wages with an indication, in each case, of the kinds of deductions mentioned in sub-rule (2) of Rule 21 ;
- (e) The wages actually paid to each person employed for each wage period and the date of payment.
- (2) Wage slips containing the aforesaid particulars and such other particulars as may be notified by the Central Government shall be issued by every employer to every person employed by him at least a day prior to the disbursement of wages.
- (3) Every employer shall get the signature or the thumb impression of every person employed on the wages book and wage slip.
- (4) Entries in the wage books and wage slips shall be authenticated by the Employer or any person authorised by him in this behalf.
- (5) A Muster Roll shall be maintained by every employer and kept in form V.

CHAPTER V.

CLAIMS UNDER THE ACT.

27. *Application.*—An application under sub-section (2) of section 20 or sub-section (1) of section 21, by or on behalf of an employed person or group of employed persons, shall be made in duplicate in forms VI, and VII, as the case may be.

28. *Authorisation.*—The authorisation to act on behalf of an employed person or persons, under sub-section (2) of section 20 or of sub-section (1) of section 21 shall be given in form VIII by an instrument which shall be presented to the Authority hearing the application and shall form part of the record.

29. *Appearance of parties.*—(1) If an application under sub-section (2) of section 20 or section 21 is entertained, the authority shall serve upon the employer by registered post a notice in form IX to appear before him on a specified date with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may hear and determine the application *ex parte*.

(3) If the applicant or his representative fails to appear on the specified date, the Authority may dismiss the application.

(4) An order passed under sub-rule (2) or sub-rule (3) may be set aside on sufficient cause being shown by the defaulting party within one month of the date of the said order, and the application shall then be reheard after service of notice on the opposite party of the date fixed for re-hearing, in the manner specified in sub-rule (1).

CHAPTER VI

SCALE OF COSTS IN PROCEEDINGS UNDER THE ACT

30. *Costs.*—(1) The Authority for reasons to be recorded in writing, may direct that the cost of any proceeding pending before it shall not follow the event.

(2) The costs which may be awarded shall include—

(i) expenses incurred on account of court-fees ;

(ii) expenses incurred on subsistence money to witnesses ; and

(iii) pleader's fees to the extent of ten rupees provided that the Authority in any proceeding, may reduce the fees to a sum not less than five rupees or for reasons to be recorded in writing increase it to a sum not exceeding twenty-five rupees.

(3) Where there are more than one pleaders or more than one applicants or opponents the Authority may, subject as aforesaid, award to the successful party or parties such costs as it may deem proper.

31. *Court fees.*—The Court fee payable in respect of proceedings under Section 20 shall be—

(i) for every application to summon a witness—One rupee in respect of each witness ;

(ii) for every application made by or on behalf of an individual—one rupee :

Provided that the Authority may, if in its opinion, the applicant is a pauper exempt him wholly or partly from the payment of such fees :

Provided further that no fee shall be chargeable

(a) from persons employed in Agriculture ; or

(b) in respect of an application made by an Inspector.

Register of Fines.

[Rule 21 (4)]

Employer.

1	2	3	4	5	6	7	8	9	10	11
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[Rule 21 (4)]

.....Employer.....

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FORM III
[Rule 21 (4)]
Deduction from wages.

Return for the year ending the 31st December

1. Name of the employer and postal address
2. Total number of persons employed { Adults.....
Children
3. Total wages paid
4. Number of cases and amounts realised as :—

	No. of cases :	Amount
(a) Fines.....		
(b) Deductions for damage or loss.....		
(c) Deductions for breach of contract.....		

5. Disbursements from Fine Fund

Amount	Purpose

Rs.

Dated.....19.....

Signature.....

Designation.....

88 298

[Rule 25 (2)]

Overtime register for workers.

Month ending.....19.....

[illegible]

207
89

Muster Roll:

Name of Establishment.....Place.....

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FORM VI. 91

[FORM OF APPLICATION BY AN EMPLOYEE UNDER SECTION 20 (2)]

In the Court of the Authority appointed under the Minimum Wages Act, 1948,
for.....Area.

Application No.....of 19.....

(1).....
(2).....
(3).....

Applicant (s)

(through.....a Legal Practitioner
.....official of.....Union which
is a registered Trade (Union).

Address.....

Versus

(1).....
(2).....
(3).....

Opponents.

Address.....

The applicant (s) above-named beg (s) respectfully to submit as follows:—

(1) that
(2) that The applicant (s) has (have) been paid wages at less than the minimum rate
of wages.The applicant (s) estimate (s) the value of the relief sought by him (them) at
the sum of Rs.....The applicant (s) pray (s) that a direction may be issued under sub-section (3)
of Section 20 for:—(a) Payment of the difference between the wages due according to the
minimum rate of wages fixed by Government and the wages
actually paid, and

(b) Compensation amounting to Rs.....

The applicant (s) beg (s) leave to amend or add to or make alterations in the
application if any and when necessary.

*

Date.....

Signature or thumb impression of the
employee (s), legal practitioner or
official of a registered trade union
duly authorised.The applicant (s) do (es) solemnly declare that what is stated above is true to
the best of his (their) knowledge, belief and information.

This verification is signed at.....on.....day of.....19.....

*

Signature or thumb impression of the
employee (s) or legal practitioner or
official of a registered trade union
duly authorised.* When the application is by a group of employees, the thumb impression or
signatures of two of the applicants need be put to the application and a full list
of applicants should be attached to the application.

92 FORM VII.

[FORM OF APPLICATION BY AN INSPECTOR OR PERSON ACTING WITH THE
PERMISSION OF THE AUTHORITY UNDER SECTION 20 (2).]

In the Court of the Authority appointed under the Minimum Wages Act, 1948,
for area.

Application No. of 19 ..

(1) Applicant.

Address

Versus

(1) Opponent.

Address

The applicant above-named begs respectfully to submit as follows :—

(1) that

(2) that

The opponent is bound to pay wages at the minimum rate of wages fixed by
Government but he has paid less wages to the following employees :—

(1)

(2)

(3)

The applicant estimates the value of the relief sought for the employees at
the sum of Rs.

The applicant prays that a direction may be issued under sub-section (3) or
Section 20 for :—

(a) Payment of the difference between the wages due according to the
minimum rate of wages fixed by Government and the wages
actually paid, and

(b) Compensation amounting to Rs.

The applicant begs leave to amend or add to or make alterations in the
application if and when necessary.

Date

Signature

The applicant does solemnly declare that what is stated above is true to
the best of his knowledge, belief and information. This verification is signed
at on day 19

FORM VIII.

[FORM OF AUTHORITY IN FAVOUR OF A LEGAL PRACTITIONER OR ANY OFFICIAL
OF A REGISTERED TRADE UNION REFERRED TO IN SECTION 20 (2).]

In the Court of the Authority appointed under the Minimum Wages Act,
1948, for Area.

Application No. of 19 ..

(1)

(2)

(3)

} Applicant (s)

Versus

(1)

(2)

(3)

} Opponent (s)

I hereby authorise Mr....., a legal practitioner an official of the registered trade union of to appear and act on my behalf in the above-described proceeding and to do all things incidental to such appearing and acting.

Date

Signature or thumb impression of the employee.

FORM IX.

[FORM OF SUMMONS TO THE OPPONENT TO APPEAL BEFORE THE AUTHORITY WHEN AN APPLICATION UNDER SUB-SECTION (2) OF SECTION 20 OR UNDER SECTION 21 IS ENTERTAINED.]

(Title of the application.)

To

(Name, description and place of residence.)

WHEREAS has made the above said application to me under the Minimum Wages Act, 1948, you are hereby summoned to appear before me in person or by a duly authorised agent, and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the day of 19....., at o'clock in the noon, to answer the claim; and as the day fixed for the appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Take notice that in default of your appearance on the day before-mentioned, the application will be heard and determined in your defence.

Date

Signature of the Authority,
[No. LWI-24 (16).]
P. N. SHARMA, Under Secy.

PART IV 94

Section I-C

RULES, ORDERS AND NOTIFICATIONS, UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

HOME DEPARTMENT.

No. H.B. 2486-96—Ptl. 4-51-4, dated Bangalore, the 19th June 1951.

Ordered that the accompanying Notification, No. III-PMT (S-24)—49-N(9), dated 1st June 1951, of the Government of India, Ministry of Rehabilitation, further amending the Permit System Rules, 1949, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Chief Secretary to Government.

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

New Delhi, dated the 1st June 1951.

NOTIFICATION.

No. III-PMT (S-24)—49-N(9).—In exercise of the powers conferred by Section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government hereby directs that the following further amendment shall be made in the Permit System Rules, 1949, namely :—

In Appendix II to the said Rules, for the existing form of Certificate of Identity given in Part 4, the following form shall be substituted, namely :—

**CERTIFICATE OF IDENTITY TO BE PRODUCED BY INDIAN NATIONALS
APPLYING FOR A PERMIT FOR TEMPORARY, REPEATED
JOURNEYS, OR TRANSIT JOURNEY FOR PAKISTAN.**

GOVERNMENT OF INDIA.

Certificate of Identity.

Valid for three months from to

Name of State District

S. No.

Name of applicant
(in block letters)

Father's name

Husband's name

Domicile

Occupation

If evacuee, date of migration and original address in Pakistan

Place of birth

Age (with date of birth)

Permanent address in India

Signature or thumb impression of the applicant

CERTIFICATE.

Certified that Mr./Mrs./Miss.....
whose details are given above and whose photograph is duly certified by me and
is affixed below is a person domiciled in India.

Certified further that he/she is going to Pakistan on a temporary visit/transit
journey for the purpose of with the following
members of his/her family and that there is no objection to their return to India any
time within the period of validity of the certificate.

Name	Age	Exact relationship to the holder of this certificate	Marks of identi- fication, if any.

NOTE.—Only names of PARDAH NASHIN LADIES and children below the age of 12 should be
entered here. For other persons a separate identity certificate should issue.

.....
Signature of the
Deputy Commissioner/Collector.
District.....

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PHOTOGRAPH
OF THE
HOLDER

Seal of the

Deputy Commissioner/Collector.

..... District.

Date.....

Additional certificate of Service to be produced by non-gazetted Government servants in India when travelling on private affairs.

Name.....

Designation or post held.....

Department.....

Whether temporary or permanent.....

Date of joining Government Service.....

Whether subscribing to a provident fund.....

Married/or single.....

Date.....

Place.....

Signature of Head of Office.

NOTIFICATION.

HOME DEPARTMENT.

No. H.B. 2952-62—Ptl. 4-51-6, dated Bangalore, 30th June 1951.

Ordered that the accompanying Notification No. III—PMT (X-45)/51-N(10), dated 3rd June 1951 of the Government of India, Ministry of Rehabilitation, further amending the Permit System Rules, 1949, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Chief Secretary to Government.

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

NOTIFICATION.

New Delhi, the 3rd June 1951.

No. III—PMT (X-45)—51-N (10). In exercise of the powers conferred by Section 4 of the Influx from Pakistan (Control) Act, 1949, (XXIII of 1949), the Central Government hereby directs that the following amendment shall be made in the Permit System Rules, 1949, namely :—

Rule 1 of the said Rules shall be re-numbered as sub-rule (1) thereof and after sub-rule (1) as so amended the following sub-rule shall be inserted, namely :—

(2) They extend to the whole of India.

V. D. DANTYAGI, *Jt. Secy.*

NOTIFICATION.

No. L. D. 418—Legis. 5-51-4, dated Bangalore, 21st May 1951.

Ordered that the accompanying Notification No. S.R.O. 586, dated the 20th April 1951 of the Ministry of Finance amending the Banking Companies Rules, 1949, published in the *Gazette of India*, Part II, Section 3, dated the 28th April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF FINANCE

ECONOMIC AFFAIRS DEPARTMENT.

New Delhi, the 20th April, 1951

S.R.O. 586.—In exercise of the powers conferred by sub-section (1) of section 52 of the Banking Companies Act, 1949 (X of 1949), read with section 23 of the General Clauses Act, 1897 (X of 1897), the Central Government is pleased to direct that the following amendments shall be made in the Banking Companies Rules,

1949, the same having been previously published as required by sub-section (3) of the former section, namely:—

I. In the said Rules and the Forms annexed thereto, wherever an expression mentioned in the first column of the Table hereinunder printed occurs there shall be substituted therefor the expression set opposite to it in the second column of that Table.

TABLE.

(1)	(2)
'Province' ...	} State
'Provincial' ...	
'Province or State' ...	
'in a province of India' ...	} in India
'within any province of India' ...	
'in any province of India' ...	
'in the provinces of India' ...	} outside India
'elsewhere than in a province of India' ...	
'outside the provinces of India' ...	

II. In the said Rules—

1. In rule 2, sub-rule (2) shall be omitted.

2. For rule 14 the following Rule shall be substituted, namely:—

14. Publication of approved currencies and securities:—

(1) The Reserve Bank shall, not later than one month from the commencement of these rules, by a notification in the *Gazette of India*, publish for the purpose of section 25 of the Act a list of currencies in which export bills drawn in, and import bills drawn on and payable in, India may be expressed.

(2) The Reserve Bank may, by notification in the *Gazette of India*, publish for the purpose of section 25 of the Act, a list of securities approved by it.

(3) Any alteration in the lists referred to in sub-rules (1) and (2) shall also be published in the *Gazette of India*.

(4) An alteration, adding a currency or security to the list, shall take effect from the date of publication of the alteration while an alteration, omitting a currency or security from the list, shall take effect at the expiry of three months from the date of publication of the alteration.

3. To Rule 15 the following Explanation shall be added, namely:—

Explanation.—For the purposes of this rule, the expression "newspaper" means any newspaper or journal published at least once a week, but does not include a journal other than a banking, commercial, financial or economic journal."

III. In the Forms annexed to the said Rules—

1. The foot notes in Forms I, IV, V, VI, VII, VIII, IX, X, XII and XIII, in so far as they relate to Acceding States, shall be omitted.

2. In the first foot note to Form I, before the letters "etc." the following words shall be inserted, namely:—

"fees and allowances to directors".

3. In Forms V, VI, VII and VIII, in item 2, for the words "Place of registration" the words "Place of location of the registered office" shall be substituted.

4. In Form X—

(i) for the item "B. Minimum amount of assets required to be held under section 24 of the Act..... 20 per cent of A (3)....." the following item shall be substituted, namely :—

"B. Minimum amount of assets required to be held under section 24 of the Act [20 per cent of A (3)]."

(ii) In the foot note (a), for the brackets, figures and word "(XVI of 1881)" the following shall be substituted, namely :—

"(XXVI of 1881)".

5. In Form XI, under the heading "C. Assets in the Provinces of India" for item 12 the following item shall be substituted, namely :—

"12. Securities approved by the Reserve Bank under section 25 (3) (a) of the Act and not included in any of the above item."

6. In Form XII in the heading of column 4 for the letters "etc." the following shall be substituted, namely :—

"or other accounts of the nature of deposits".

7. In Form XIII—

(i) Under the heading "A. Liabilities in the Provinces of India" for item 5 the following item shall be substituted, namely :—

"5. Borrowings from other banking companies".

(ii) Under the heading "B. Assets in the Provinces of India" for item 8 (1) the following item shall be substituted, namely :—

"(1) In Securities (including treasury bills) of—

(a) Central Government.

(b) any State Government".

(iii) Under the heading "B. Assets in the Provinces of India" for item 10 the following item shall be substituted, namely :—

"10 Due from banking companies."

(iv) In the second foot note, for the brackets, figures and word "(XVI of 1881)" the following shall be substituted, namely :—

"(XXVI of 1881)".

(v) In the third foot note, for the words "the Provinces of India and Acceding States to which the Act extends" the word "India" shall be substituted.

NOTIFICATION.

No. L.D. 634—Legis. 6-51-11, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. 61. T.A.G. (8) 51 dated the 30th May 1951 of the Ministry of Transport under the Essential Supplies (Temporary Powers) Act, 1946, delegating powers to Part 'A', 'B' and 'C' States with regard to making orders relating to petrol, published in the *Gazette of India*, Part I, Section 1, dated the 9th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

GOVERNMENT OF INDIA

MINISTRY OF TRANSPORT.

New Delhi, the 30th May 1951

No. 61-TAG (8) 51.—In exercise of the powers conferred by Section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), and in supersession of the Notification of the Government of India in the Ministry of Transport No. 6-PK(2)—47, dated the 13th September 1947, the Central Government hereby directs that the power to make Orders under Section 3 of the said Act shall in relation to motor spirit, be exercisable also by the Governments of all Part 'A' and Part 'B' States, the Chief Commissioners of all part 'C' States and the Chief Commissioner of the Andaman and Nicobar Islands, subject to the conditions that:

- (i) no Order made in exercise of the aforesaid powers shall have effect in so far as it is repugnant to any Order made under the said Section by the Central Government;
- (ii) no Order made in exercise of the aforesaid powers shall have effect so as to freeze supplies of motor spirit in transit, booked for destination outside the State or the territories of Andaman and Nicobar Islands, as the case may be.

T. S. PARASURAMAN, Dy. Secy.

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NOTIFICATION.

No. L.D. 635—Legis. 6-51-12 dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. W.P.S. (PD)-505 (3)—B-X, dated the 26th May 1951, of the Ministry of Works, Production and Supply under the Essential Supplies (Temporary Powers) Act, 1946, with regard to making orders relating to Kerosene oil published in the *Gazette of India*, Part I, Section 1, dated the 9th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 26th May 1951.

No. W.P.S. (PD)-505 (3)—B-X.—In exercise of the powers conferred by section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the power to make orders under section 3 of the said Act, shall, in relation to kerosene oil, be exercisable also by the Government of Mysore in the State of Mysore.

S. S. PURI, Under Secy.

NOTIFICATION.

No. L.D. 636—Legis. 6-51-13, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 761, dated the 23rd May 1951, of the Ministry of Finance under Article 258 (1) of the Constitution delegating the functions of the Central Government under certain sections of the Indian Companies Act, 1913, to Governments of Part 'B' States published in the *Gazette of*

India, Part II, Section 3, dated the 23rd May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE.

(Department of Economic Affairs.)

NOTIFICATION.

COMPANY LAW.

New Delhi, the 23rd May 1951.

In exercise of the powers conferred by clause (1) of Article 258 of the Constitution, the President hereby entrusts to all Governments of Part 'B' States, the functions of the Central Government under all the provisions of the Companies Act, 1913 (VII of 1913), other than those specified in the Schedule annexed :

THE SCHEDULE.

Sub-section (3) of Section 11.

Sub-section (4) of section 11 in so far as an insurance company as defined in clause (8) of section 2 of the Insurance Act, 1938, is concerned.

Sub-section (5) of section 107.

Sub-sections (1) and (2)A of Section 144.

Section 151.

Sub-section (1) of section 249.

Sub-section (8) of section 277.

[No. 50(2)-I.C.L./51.]

B. K. KAUL, *Deputy Secy.*

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NOTIFICATION.

No. L. D. 688—Legis. 5-51-15, dated Bangalore, the 26th June 1951.

Ordered that the accompanying Notification No. 772 dated the 16th June 1951, of the Ministry of Defence amending the National Cadet Corps Rules, 1948, published in the *Gazette of India*, Part I, Section 3, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF DEFENCE.

NOTIFICATION.

New Delhi, the 16th June 1951.

No. 772.—In exercise of the powers conferred by section 13 of the National Cadet Corps Act, 1948 (XXXI of 1948), the Central Government hereby directs that the following amendments shall be made in the National Cadet Corps Rules, 1948, namely:—

In the said Rules—

In Part IV, after rule 22, the following rule shall be inserted, namely:—

“22A. **Notice for leaving college or school.**—(1) Where an officer appointed to the Senior Division of the Corps desires to leave the college in which is located the Unit to which he is posted under sub-rule (1) of rule 23, he shall give six months' notice in writing of his intention to do so to the Principal of the College.

(2) Where a person appointed to the Junior Division of the Corps desires to leave the school in which is located the Unit to which he is posted under sub-rule (2) of rule 23, he shall give three months' notice in writing of his intention to do so to the Headmaster of the School.”

2. In Schedule I, in Form III, in the Declaration relating to acceptance of application, after the first paragraph, the following paragraph shall be inserted, namely:—

“I undertake that in case after having been commissioned in the corps, I desire to leave the College/School, in which is located the Unit to which I am posted under rule 23, I shall give 6 months'/3 months' notice in writing to the Principal of my College/Headmaster of my school, of my intention to leave the College/School.”

H. M. PATEL, Secy.

NOTIFICATION.

No. L.D. 689—Legis. 5-51-18, dated Bangalore, the 7th July 1951.

Ordered that the accompanying Notification No. F. 10/50-S.C.C., dated the 18th June 1951 of the Supreme Court of India amending the Supreme Court Rules 1950 published in the *Gazette of India*, Part I, Section 1, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GAZETTE OF INDIA DATED 23RD JUNE 1951.

SUPREME COURT OF INDIA

New Delhi, the 18th June 1951.

No. F. 10/50-S.C.C.—The following is published for general information :—

The Supreme Court of India, in the exercise of its rule-making powers, and with the approval of the President, hereby makes the following amendment to the Supreme Court Rules, 1950.

In Part I, Order XI, rule 1, line 2, for the words "three Judges" read "two Judges".

By Order of the Court.

P. N. MURTY, Registrar.

PART IV

Section 2-C

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.**

NOTIFICATIONS.

No. Fl. (B) 664—Bud. 2-51-4, dated Bangalore, 9th July 1951.

In exercise of the powers conferred by Section 7 of the Mysore Cinematograph Shows Tax Act, 1951 (Mysore Act No. XVI of 1951), His Highness the Maharaja of Mysore is pleased to direct that the following amendment shall be made in the Mysore Cinematograph Shows Tax Rules, 1951, *viz.*,—

In Rule 13 of the said Rules, for the words “seven days” the words “one month” shall be substituted.

By Order of His Highness the Maharaja,

M. SHAMANNA,

*Secretary to Government,
Finance Department.*

No. S.D. 2616—C. 145-50-14, dated Bangalore, the 6th July 1951.

In exercise of the powers conferred by sub-section (1) of Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (Central Act XXIV of 1946), read with the Government of India, Ministry of Food Notification No. S.R.O. 703, dated 4th October 1950 and with the concurrence of the Central Government, His Highness the Maharaja of Mysore is pleased to make the following Order, namely :—

O R D E R.

In the proviso to sub-clause (1) of clause 17 of the Articles of Food Acquisition (Harvest) Order, 1949,

after item (3) the word “ or ” and the following item shall be added, namely :—

- “(4) by a person who is not a holder or who is a partial holder who is issued a ration card in respect of foodgrains, by head-load for his *bona fide* personal consumption from one non-rationed area within a District to another non-rationed area in the same District, of foodgrains not exceeding thirty seers in all.”

EXPLANATION.

A partial holder is a person who, though a holder, is one whose share of the produce of the land is not sufficient to satisfy the quantity he is allowed under his Ration Card.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

Secretary to Government,

Food and Agriculture Departments.



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The Mysore Gazette

PUBLISHED BY AUTHORITY

(EXTRAORDINARY)

BANGALORE, TUESDAY, JULY 10, 1951

PART IV

Section 2-B:

**MYSORE ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE RAJPRAMUKH.**

NOTIFICATION.

No. L.D. 750- Legis. 41-51-1, dated Bangalore, 10th July 1951.

Ordered that the accompanying Mysore Legislature (Prevention of Disqualification) (Amendment) Ordinance, 1951, which was promulgated by the Rajpramukh of Mysore, on the 5th day of July 1951, be published as Mysore Ordinance No. II of 1951, in the *Mysore Gazette* for general information.

MYSORE ORDINANCE No. II OF 1951.

THE MYSORE LEGISLATURE (PREVENTION OF DISQUALIFICATION) (AMENDMENT) ORDINANCE, 1951.

*Promulgated by the Rajpramukh of Mysore on the
5th day of July 1951.*

An Ordinance to amend the Mysore Legislature (Prevention of Disqualification) Act, 1951.

Whereas the Mysore Legislative Assembly is not in session and the Rajpramukh of Mysore is satisfied that circumstances exist which render it necessary for him to

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take immediate action to amend the Mysore Legislature (Prevention of Disqualification) Act, 1951 (Mysore Act 951), for the purpose hereinafter appearing;

therefore, in exercise of the powers conferred (1) of Article 213 read with Article 238 of the Constitution of India, the Rajpramukh of Mysore is promulgate the following Ordinance:—

Short title and
commence-
ment.

1. (1) This Ordinance may be called the Mysore Legislature (Prevention of Disqualification) (Amendment) Ordinance, 1951.

(2) It shall come into force at once.

Amendment
of Schedule to
Mysore Act
No. XXV of
1951.

2. In the Schedule to the Mysore Legislature (Prevention of Disqualification) Act, 1951, after item 2 of the Schedule, the following item shall be added, namely,—

“ 3. Member of any Industrial Tribunal constituted by the State Government under the Industrial Disputes Act, 1947 (Central Act XIV of 1947).”

JAYA CHAMARAJA WADIYAR,

Maharaja of Mysore.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Registered No. M. 1175.

The Mysore



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PUBLISHED BY

AUTHORITY

Vol. 86]

BANGALORE, THURSDAY, JULY 19, 1951.

[No. 29

PART IV

Section I-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L.D. 89—Legis. 3-50-22, dated Bangalore, 16th April 1951.

Ordered that the accompanying Indian Tariff (Amendment) Bill, 1951 (No. 19 of 1951) published in the *Gazette of India*, Part II, Section 2, dated the 24th March 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

PARLIAMENT OF INDIA.

The following Bill was introduced in Parliament on the 13th March, 1951 :—

BILL* No. 19 OF 1951.

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Indian Tariff (Amendment) Act, 1951.

2. Insertion of new section 3A in Act XXXII of 1934.—After section 3 of the Indian Tariff Act, 1934 (hereinafter referred to as the principal Act), the following section shall be inserted, namely :—

“3A. Power of Central Government to levy protective duties in certain cases.—(1) Where the Central Government, upon a recommendation made to it in this behalf by the Tariff Board set up under the Resolution of the Government of India in the Department of Commerce No. 218-T (55)/45, dated the 3rd November, 1945, is satisfied that circumstances exist which render it necessary to take immediate action to provide for the protection of the interests of any industry established in India, the Central Government may, by notification in the Official Gazette, impose on any goods imported into India in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount proposed in the said recommendation, as it thinks fit.

(2) Every duty imposed under sub-section (1) shall, for the purposes of this Act, be deemed to have been specified in the First Schedule, and shall be in addition to any duty imposed under this Act or any other law for the time being in force, but shall not be included in the duty of customs upon which any additional duty imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), and continued, subject to certain modifications by certain subsequent Central Acts, is calculated, or operate so as in any way to affect the amount of any additional duty so imposed.

(3) During the session of Parliament commencing after the date of the notification under sub-section (1) there shall, unless the notification is in the meantime cancelled, be introduced in Parliament on behalf of the Central Government a Bill to give effect to the proposals of the Central Government in regard to the continuance of the protective duty of customs on the goods to which the notification relates, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder.”

3. Amendment of the First Schedule, Act XXXII of 1934.—In the First Schedule to the principal Act,—

(i) in Item No. 11 (3), for the entry in the second column, the words “Sago, Tapioca and Tapioca flour, not otherwise specified” shall be substituted;

(ii) after Item No. 11 (5), the following Item shall be inserted, namely :—

“11 (6)	Sago globules and tapioca pearls—					
	(a) manufactured in a British Colony.	Protective	24 per cent ad valorem.	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective	36 per cent ad valorem.	...	...	December 31st, 1952.”

(iii) in Item No. 15 (10), in the entry in the second column, after the word “Stearine” the brackets and words “(Glyceride of Stearic Acid)” shall be inserted;

(iv) in Item No. 26, to the entry in the second column, the words “and antimony ore” shall be added;

All

(v) after Item No. 26, the following Item shall be inserted, namely :—

"26 (1)	Antimony ore in any form such as— (a) lump; (b) powder or fine; and (c) concentrates.	...	Free	...	...	...
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(vi) in Items Nos. 27 (4) and 27 (8)—

(a) in the entry in the second column, the words "by Abel's close test" shall be omitted:

*The President has, in pursuance of clause (1) of article 177 of the Constitution of India, recommended to Parliament the introduction of the Bill.

(b) to the entry in the second column, the following Note shall be added, namely :—

"Note.—Flashing points will be determined in accordance with the tests laid down in the rules made under the Petroleum Act, 1934 (XXX of 1934)";

(vii) in Item No. 28 (8), in the entry in the second column, the word "carbolic" shall be omitted;

(viii) for Item No. 28 (20), the following Item shall be substituted, namely :

"28 (20)	(a) Acid oleic or any product containing 60 per cent or more of free liquid fatty acids.	Protective	30 per cent ad valorem.	...	...	December 31st, 1951.
	(b) Acid stearic or any product containing 60 per cent. or more of free solid fatty acids.	Protective	30 per cent ad valorem.	...	...	December 31st, 1951.
	(c) Mixtures of (a) and (b) containing 60 per cent or more of free fatty acids.	Protective	30 per cent ad valorem.	...	...	December 31st, 1951.";

(ix) in Item No. 28 (29), in the entry in the second column, after the word "phenol" the brackets and words "(carbolic acid)" shall be inserted;

(x) after Item No. 28 (30), the following Item shall be inserted, namely :—

"28 (31)	Calcium lactate— (a) of British manufacture. (b) not of British manufacture: Provided that calcium lactate manufactured in a British Colony shall be deemed to be of British manufacture.	Protective Protective	26 per cent ad valorem. 36 per cent ad valorem.			December 31st, 1953. December 31st, 1953.";
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(xi) for Item No. 30 (7), the following item shall be substituted, namely :—

"30 (7)	Lead Pencils	Protective	30 per cent ad valorem or 3½ annas per dozen, whichever is higher.	...	...	December 31st, 1952."
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(xii) after Item No. 45 (3), the following items shall be inserted, namely :—

"45 (4)	Coloured and copying pencils.	Protective	37½ per cent ad valorem.	...	...	December 31st, 1952.
45 (5)	Fountain pen ink	Protective	37½ per cent ad valorem.	...	...	December 31st, 1953."

(xiii) in Items Nos. 46, 46 (1), 47, 47 (1) and 48, in the last column headed "Duration of protective rates of duty", for the word, figures and letters "March 31st, 1951", the word, figures and letters "March, 31st, 1952" shall be substituted;

(xiv) after Item No. 71 (7), the following Item shall be inserted, namely :—

"71 (8)	Grinding wheels and segments.	Protective	100 per cent ad valorem.	...	...	December 31st, 1951."
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(xv) after Item No. 71 (10), the following Item shall be inserted, namely :—

"71 (11)	Oil pressure lamps of 100 to 400 candle power, all sorts.	Protective	30 per cent ad valorem.	...	...	December 31st, 1953."
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(xvi) in Item No. 72 (d), in the entry in the second column, after the words "any machinery above specified", the words "and also with squirrel cage electric motors of one-quarter of one brake horse power and above", shall be inserted;

(xvii) in Item No. 72 (8), in the entry in the second column, after the words "seed and corn crushers", the words "seed and grain cleaners and graders" shall be inserted;

(xviii) in Item No. 72 (25), to the entry in the second column, the following proviso shall be added, namely :—

"Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine or apparatus to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable."

(xix) in Item No. 75 (1), in the entry in the fifth column, for the figures "54", the figures "57" shall be substituted;

(xx) for Item No. 85, the following Item shall be substituted, namely:—

"85	Buttons, studs and cuff links—	Protective	30 per cent ad valorem.	...	...	December 31st, 1953.
	(a) made of metals other than gold or silver.	Protective	35 per cent ad valorem.	...	...	December 31st, 1953.
	(b) made of porcelain.	Protective	30 per cent ad valorem.	...	...	December 31st, 1953."
	(c) not otherwise specified but excluding jewellery, and articles made of glass or plated with gold or silver or both.					

4. Amendment of Act I of 1949.—In the Indian Tariff (Amendment) Act, 1949,—

(i) in sections 4 and 5, for the figures "1951" the figures "1954" shall be substituted; and

(ii) section 7 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The objects of the present Bill are—

(1) to amend the Indian Tariff Act, 1934 (XXXII of 1934) to empower Government to impose protective duties by notification in emergent circumstances on the recommendation of the Tariff Board to be followed up by formal legislation;

(2) to amend the First Schedule to the Act in order to grant protection to certain industries and to extend beyond the 31st March, 1931, the period of protection for certain other industries on the advice of the Tariff Board; and

(3) to amend the Indian Tariff (Amendment) Act, 1949 (I of 1949) in order to continue for a further period of three years the concessions agreed to under the General Agreement on Tariffs and Trade at Geneva.

2. As regards (1), the powers indicated are at present exercisable under the Protective Duties Act, 1946 (XVII of 1946). This Act is, however, due to expire on the 31st March, 1951. It is necessary to retain these powers permanently and it is convenient to have these powers incorporated in the Indian Tariff Act, 1934.

3. As regards (2), the industries which are to be protected are—

- (i) Sago globules and tapioca pearls,
- (ii) Fine chemicals (calcium lactate),
- (iii) Pencils,
- (iv) Fountain pen ink,
- (v) Oil pressure lamps, and
- (vi) Buttons, studs and cuff links.

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The industries which will continue to be protected are —

- (i) Sericulture, and
- (ii) Grinding wheels and segments.

4. As regards (3), Act No. I of 1949 is due to expire on the 31st March 1951. The Contracting Parties to the General Agreement have proposed that the present Contracting Parties (including India) should continue the concessions for a further period of three years. The Schedule to the Act which is being amended accordingly embodies only the items on which concessions were agreed to during the first set of negotiations at Geneva in 1947.

5. Opportunity has also been taken to carry out certain minor amendments of a formal character.

D. P. KARMARKAR

NEW DELHI;

The 12th March, 1951.

PART IV

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CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION

No. L.D. 3151—Legis. 3-50-14, dated Bangalore, 30th January 1951.

Ordered that the accompanying Representation of the People (No. II) Bill, 1950 (Bill No. 106 of 1950), published in the *Gazette of India*, Part II, Section 2, dated the 23rd December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

REPRESENTATION OF THE PEOPLE (No. II) BILL, 1950.

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THE REPRESENTATION OF THE PEOPLE (No. 2) BILL, 1950

(AS INTRODUCED IN PARLIAMENT)

A
BILL

to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

BE it enacted by Parliament as follows :—

PART I

PRELIMINARY.

1. **Short title.**—This Act may be called the Representation of the People No. 2), Act, 1950.

2. **Interpretation.**—(1) In this Act, unless the context otherwise requires,—

- (a) each of the expressions defined in section 2 or sub-section (1) of section 27 of the Representation of the People Act, 1950, but not defined in this Act, shall have the same meaning as in that Act ;
- (b) “ appropriate authority ” means, in relation to an election to the House of the People or to the Council of States, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government ;
- (c) “ corrupt practice ” means any of the practices specified in section 118 or section 119 ;
- (d) “ Election ” means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir ;
- (e) “ illegal practice ” means any of the practices specified in section 120 ;
- (f) “ prescribed ” means prescribed by rules made under this Act ;
- (g) “ sign ” in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed ;
- (h) “ Tribunal ” means a tribunal appointed by the Election Commission under section 81.

(2) For the purposes of this Act, a Council of States constituency, a Parliamentary constituency, an Assembly constituency, a Council constituency, a local authorities’ constituency, a graduates’ constituency and a teachers’ constituency shall each be treated as a constituency of a different class.

(3) Any requirement under this Act that a notification, order, rule, declaration, notice or list issued or made by any authority shall be published in the official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule, declaration, notice or list shall—

- (a) where it is issued or made by the Central Government, be published in the Gazette of India.
- (b) where it is issued or made by a State Government be published in the official Gazette of the State ; and

(c) where it is issued or made by any other authority, be published in the Gazette of India if it relates to an election to, or membership of, either House of Parliament, and in the official Gazette of the State if it relates to an election to, or membership of, the House or either House of the Legislature of a State.

(4) Where, under any of the provisions of this Act, anything is to be prescribed, different provisions may be made for different cases or classes of cases.

(5) Any reference in this Act to a law which is not in force in a Part B State shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

CHAPTER I

Qualifications for membership of Parliament

3. Qualifications for membership of the Council of States.—(1) A person shall not be qualified to be chosen as a representative of any Part A or Part B State (other than the State of Jammu and Kashmir) in the Council of States unless he is entitled to vote in the choice of a member to fill any of the seats allotted to that State in the House of the People.

(2) A person shall not be qualified to be chosen as a representative of any Part C State or group of Part C States (Other than the States of Manipur and Tripura) in the Council of States unless he is entitled to vote in the choice a member as such representative.

(3) A person shall not be qualified to be chosen as a representative of the States of Manipur and Tripura in the Council of States unless he is entitled to vote in the choice of a member to fill any of the seats allotted to the said States in the House of the People.

4. Qualifications for membership of the House of the People.—A person shall not be qualified to be chosen to fill a seat in the House of the People, other than a seat allotted to the State of Jammu and Kashmir, unless—

(a) in the case of a seat reserved for the scheduled castes in any State, he is a member of any of the scheduled castes, whether of that State or of any other State, and is entitled to vote in the choice of a member to fill that seat or any other seat in the House of the People ;

(b) in the case of a seat reserved for the scheduled tribes in any State, other than a seat reserved for the scheduled tribes in the autonomous districts of Assam, he is a member of any of the scheduled tribes of that State for which the seat is so reserved and is entitled to vote in the choice of a member to fill that seat, or any other seat in the House of the People ;

(c) in the case of a seat reserved for the scheduled tribes in the autonomous districts of Assam, he is a member of any of those scheduled tribes and is entitled to vote in the choice of a member to fill that seat ; and

(d) in the case of any other seat he is entitled to vote in the choice of a member to fill that seat or any other seat in the House of the People.

CHAPTER II

Qualifications for membership of State Legislature

5. Qualifications for membership of a Legislative Assembly.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(a) in the case of a seat reserved for the scheduled castes or for the scheduled tribes of that State, he is a member of any of those castes or of those tribes, as the

case may be, and is entitled to vote in the choice of a member to fill that seat or any other seat in that Legislative Assembly;

(b) in the case of a seat reserved for an autonomous district of Assam, other than a seat the constituency for which comprises the cantonment and municipality of Shillong, he is a member of a scheduled tribe of that district and is entitled to vote in the choice of a member to fill that seat or any other seat reserved for that district; and

(c) in the case of any other seat he is entitled to vote in the choice of a member to fill that seat or any other seat in that Legislative Assembly.

6. Qualifications for membership of a Legislative Council.—(1) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is entitled to vote in the choice of a member to fill some seat in the Legislative Assembly of that State.

(2) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor unless he is ordinarily resident in the State.

CHAPTER III

Disqualifications

7. Disqualifications for membership of Parliament or of a State Legislature.—

(1) A person shall be disqualified for being chosen as and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a) if, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice relating to elections which has been declared by section 134 or section 135 to be an offence or practice entailing disqualification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 134 or section 135, as the case may be;

(b) if, whether before or after the commencement of the Constitution, he has been convicted by a Court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release;

(c) if, having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification:

Provided that a disqualification under clause (c) shall not take effect until the expiration of two months from the date by which the return ought to have been lodged or of such longer period as the Election Commission may in any particular case allow.

(2) A person shall not be qualified for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State while he is serving a sentence of transportation or of imprisonment for an offence.

(3) Where a person who, by virtue of a conviction or a conviction and a sentence, becomes disqualified by virtue of clause (a) or clause (b) of sub-section (1), is at the date of the disqualification a member of parliament or of the Legislature of a State, then, notwithstanding anything in the foregoing provisions of this section, such disqualification shall not take effect until three months have

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 elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of; but during any period during which such disqualification does not take effect under this sub-section, he shall not sit or vote in Parliament or in the Legislature of the State, as the case may be.

PART III

NOTIFICATION OF GENERAL ELECTIONS

CHAPTER I

Parliament

The Council of States

8. Notifications for election to the Council of States.—(1) For the purpose of constituting the Council of States under the Constitution in due time, the President shall,—

(a) after the names of the elected members of the Legislative Assemblies of Part A States and Part B States other than the State of Jammu and Kashmir first constituted under the Constitution have been notified under section 63, call upon the elected members of each such Assembly, by a notification in the Gazette of India to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) by another notification call upon every Council of States constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Council of States, the President shall,—

(a) by a notification in the Gazette of India, call upon the elected members of the Legislative Assembly of each of the States referred to in sub-section (1) concerned to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified, in such notification, and

(b) by another notification call upon each of the Council of States constituencies concerned to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that the notifications under this sub-section shall be issued at such time not being more than four months prior to the date on which the term of office of the retiring members would expire under section 148 as may be appointed in this behalf by the Election Commission.

The House of the People

9. General elections to the House of the People.—(1) A General election shall be held for the purpose of constituting the House of the People under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of the House of the People or on its dissolution in order that a new House of the People may be constituted.

10. Notification for election to the House of the People.—For the purpose of constituting the House of the People under the Constitution in due time or on the expiration of the duration of the House of the People or on its dissolution, the President shall, by a notification in the Gazette of India call upon every Parliamentary constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that for the first general election to be held under the Constitution for the purpose of constituting the House of the People in due time the said notification shall be issued at such time as may be appointed in this behalf by the Election Commission :

Provided further that for any general election for the purpose of constituting the House of the People on the expiration of its duration, the said notification shall be issued at such time, not being more than four months prior to the date on which the duration of the House of the People would expire in the ordinary course of events, as may be appointed in this behalf by the Election Commission.

CHAPTER II

State Legislatures

The State Legislative Assemblies

11. General Elections to Legislative Assemblies.—(1) A general election shall be held for the purpose of constituting the Legislative Assembly of each State under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of an Assembly or on its dissolution in order that a new Assembly may be constituted.

12. Notification for election to State Legislative Assemblies.—For the purpose of constituting the Legislative Assembly of a State under the Constitution in due time or on the expiration of the duration of an Assembly or on its dissolution, the Governor or Rajpramukh, as the case may be, of the State shall, by a notification in the official Gazette, call upon every Assembly constituency to elect a member or members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that for the first general election to be held under the Constitution for the purpose of constituting the Legislative Assembly of a State in due time the said notification shall be issued at such time as may be appointed in this behalf by the Election Commission :

Provided further that for the purpose of constituting the Legislative Assembly of a State on the expiration of its duration the said notification shall be issued at such time not being more than four months prior to the date on which the duration of the Legislative Assembly of the State would expire in the ordinary course of events, as may be appointed in this behalf by the Election Commission.

The State Legislative Councils

13. Notifications for election to State Legislative Councils.—(1) For the purpose of constituting the Legislative Council of a State under the Constitution in due time, the Governor or Rajpramukh of the State, as the case may be, shall—

- (a) by a notification in the official Gazette call upon every 'local authorities' constituency, every 'graduates' constituency and every 'teachers' constituency to elect in accordance with the provisions of this Act

and of the rules and orders thereunder a member or members within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and

- (b) after the names of the members of the Legislative Assembly of the State first constituted under the Constitution have been notified under section 63, call upon such members, by another notification in the official Gazette, to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Legislative Council of a State, the Governor or Rajpramukh as the case may be, shall—

- (a) by a notification in the official Gazette call upon every local authorities' constituency, every graduates' constituency and every teachers' constituency concerned to elect in accordance with the provisions of this Act and of the rules and orders thereunder a member or members within such time as may be appointed in this behalf by the Election Commission and specified in such notification, and
- (b) by another notification in the official Gazette call upon the members of the Legislative Assembly of the State to elect members in accordance with the provisions of this Act and of the rules and orders thereunder within such time as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that the notifications under this sub-section shall be issued at such time, not being more than four months prior to the date on which the term of office of the retiring members would expire under section 150, as may be appointed in this behalf by the Election Commission.

PART IV

ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

14. Definition.—In this Part and in Part V, unless the context otherwise requires, "constituency" means a Council of States constituency or a Parliamentary constituency or an Assembly constituency or a Council constituency.

15. Returning Officer for each constituency.—For each constituency there shall be a Returning Officer who shall be such officer of Government as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate.

16. Returning Officers at other elections.—The Returning Officer for an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of the State shall be such officer of Government as the Election Commission may, in consultation with the Government of that State, designate or nominate.

17. Assistant Returning Officers.—(1) The Election Commission may appoint one or more persons to assist any Returning Officer in the performance of his functions :

Provided that every such person shall be an officer of Government.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the acceptance of a nomination paper or to the scrutiny of nominations or to the counting of votes unless the Returning Officer is unavoidably prevented from performing the said function.

18. Returning Officer to include Assistant Returning Officers performing the functions of the Returning Officer.—References in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 17.

19. General duty of the Returning Officer.—It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

20. Provision of polling stations for Constituencies.—The Returning Officer for each constituency shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for such constituency, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

21. Appointment of presiding officers for polling stations.—(1) The Returning Officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election :

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

22. General duty of the presiding officer.—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

23. Duties of a polling officer.—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

24. Special provisions in the case of certain elections.—(1) The Returning Officer for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The Returning Officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary

but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

PART V

CONDUCT OF ELECTIONS

CHAPTER I

Nomination of candidates

25. Appointment of dates for nominations, etc.—As soon as the notification calling upon a constituency to elect a member or members is issued under the provisions of Part III, the appropriate authority shall, by notification in the Official Gazette, appoint—

- (a) the last date for making nominations, which shall be a date not later than the fourteenth day after the date of the first mentioned notification;
- (b) the date for the scrutiny of nominations, which shall be a date not later than the seventh day after the last date for making nominations;
- (c) the last date for the withdrawal of candidatures, which shall be a date not later than the third day after the date for the scrutiny of nominations; and
- (d) the date or dates on which a poll shall, if necessary, be taken.

26. Public notice of election.—On the issue of a notification under section 25, the Returning Officer for the constituency shall give public notice of the intended election in such form and manner as may be prescribed, inviting nominations of candidates for such election.

27. Nomination of candidates for election.—Any person may be nominated as a candidate for election to fill a seat in any constituency if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act.

28. Presentation of nomination paper and requirements for a valid nomination.—(1) On or before the date appointed under clause (a) of section 25 each candidate shall, either in person or by his proposer or seconder, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the Returning Officer a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two persons referred to in sub-section (2) as proposer and seconder.

(2) Any person whose name is registered in the electoral roll of the constituency and who is not subject to any disqualification mentioned in section 16 of the Representation of the People Act, 1950 (XLIII of 1950) may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more:

Provided that if the name of a person is entered more than once in the electoral roll of a constituency or is included in the electoral roll of two or more constituencies of the same class, such person shall not be entitled to subscribe as proposer or seconder more than one nomination paper for each vacancy to be filled in that constituency, or in not more than one of such constituencies of the same class.

(3) Every nomination paper delivered under sub-section (1) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed as his election agent for the election either himself or another person who is not disqualified under this Act for the appointment and who shall be named in the declaration, and by such other declarations, if any, as may be prescribed; and no candidate shall be deemed to be duly nominated unless such declaration is, or all such declarations are, delivered along with the nomination paper.

(4) Any nomination paper which is not received before three o'clock in the afternoon on the date appointed under clause (a) of section 25 shall be rejected.

(5) On the presentation of a nomination paper, the Returning Officer may require the person presenting the same to produce copies of the electoral rolls in which the names of the candidate and his proposer and seconder are included or of the relevant entries in such rolls, and shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral rolls :

Provided that the Returning Officer may—

(a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls ; and :

(b) where necessary, direct that any clerical or printing error in the said entries, shall be overlooked.

29. Deposits.—At the time of delivery of nomination paper under sub-section (1) of section 28, each candidate shall enclose with the nomination paper a receipt from the Reserve Bank of India or a Government Treasury showing that a deposit of five hundred rupees in the case of an election to Parliament and a deposit of two hundred and fifty rupees in the case of an election to the Legislature of a State has been made by him in the Reserve Bank of India or the Treasury, and no candidate shall be deemed to be duly nominated unless such deposit has been made and such receipt has been enclosed with the nomination paper :

Provided that where the candidate is a member of any of the scheduled castes or scheduled tribes, the amount to be deposited by him shall be two hundred and fifty rupees in the case of an election to Parliament, and one hundred and twenty-five rupees in the case of an election to the Legislature of a State :

Provided further that where a candidate delivers more than one nomination paper for election in the same constituency not more than one deposit shall be required of him under this section.

30. Notice of nominations and the time and place for their scrutiny.—The Returning Officer shall, on receiving the nomination paper under sub-section (1) of section 28, inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him ; and shall, as soon as may be thereafter, caused to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

31. Scrutiny of nominations.—(1) On the date fixed for the scrutiny of nominations under section 25, the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint ; and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 28.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on

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such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

- (a) that the candidate is not qualified to be chosen to fill the seat under the Constitution or this Act ; or
- (b) that the candidate is disqualified for being chosen to fill the seat under the Constitution or this Act ; or
- (c) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-section (2) of section 28 ; or
- (d) that there has been any failure to comply with any of the provisions of section 28 or section 29 ; or
- (e) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud.

(3) Nothing contained in clause (c), clause (d) or clause (e) of sub-section (2) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not refuse any nomination paper on the ground of a slight technical defect, such as, the wrong spelling of a name.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 25 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section—

(a) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under the Constitution or this Act, or that the proposer or seconder, as the case may be, is disqualified under sub-section (2) of section 28.

(b) where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

32. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing in the prescribed form subscribed by him and delivered to the Returning Officer either by such candidate in person or by his proposer or seconder before three o'clock in the afternoon on the day fixed under clause (c) of section 25 :

Provided that if that day is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881) or has been notified by the appropriate authority as a day to be observed as a holiday in Government offices in the State, the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three o'clock in the afternoon on the next succeeding day which is neither such a public holiday nor a day so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice or to be renominated as a candidate for the same election.

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(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

33. Publication of nominations.—The Returning Officer shall, immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 32, prepare and publish a list of valid nominations in such manner as may be prescribed :

Provided that where the Returning Officer has under section 31 made an order from which an appeal lies under section 35, no such list shall be prepared or published until the expiration of the period within which such appeal may be presented and, if an appeal has been presented within that period, until the appeal has been disposed of and the orders of the appellate authority have been received by the Returning Officer.

34. Nomination of candidates at other elections.—(1) Any person may be nominated as a candidate for election to fill a seat in the Council of States to be filled by election by the members of the Legislative Assembly of a State, or a seat in the Legislative Council of a State to be filled by election by the members of the Legislative Assembly of that State, if he is qualified to be chosen to fill that seat under the Constitution and this Act.

(2) The appropriate authority shall, by notification in the official Gazette, appoint for each such election—

- (a) the last date for making nominations, which shall be a date not later than the fourteenth day after the date of the notification calling upon the members of the Legislative Assembly of the State to elect a member or members ;
- (b) the date for the scrutiny of nominations, which shall be a date not later than the seventh day after the last date for making nominations ;
- (c) the last date for the withdrawal of candidatures, which shall be a date not later than the third day after the date for the scrutiny of nominations ; and
- (d) the date on which a poll shall, if necessary, be taken.

(3) The provisions of sub-sections (1), (3), (4) and (5) of section 28 and sections 29 to 33 shall apply in relation to nominations of candidates, deposits to be made on such nominations and withdrawal of candidatures at any such election as they apply in relation to nominations of candidates, deposits to be made on such nominations and withdrawal of candidatures at elections in any constituency :

Provided that any person who is a member of the Legislative Assembly of a State the members of which have been called upon to elect a member or members to the Council of States or to the Legislative Council of the State, as the case may be, shall be qualified to subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled, but no more :

Provided further that any references in the said provisions—

- (a) to the electoral roll of the constituency shall be construed as a reference to the list of members made available to the members of the Legislative Assembly under sub-section (2) of section 146 ;
- (b) to section 25 and to sub-section (2) of section 28 shall be construed as references to sub-section (2) of this section and to the first proviso to this sub-section respectively.

CHAPTER II

Disputes regarding nominations.

35. Appeals from decisions of Returning Officers.—(1) The Returning Officer shall on the application of any person nominated as a candidate for the election or

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the election agent or proposer or seconder of such person supply forthwith to the applicant a copy of the decision of such officer accepting or rejecting any nomination under Chapter I of this Part in respect of such election together with the statement of reasons, if any, therefor.

(2) Any person aggrieved by the decision of the Returning Officer accepting or rejecting any nomination paper under Chapter I of this Part may, within seven days from the date of such decision present an appeal therefrom to such authority as may be designated or nominated in this behalf by the Election Commission.

(3) In every such appeal the appellant shall join as respondents to his appeal all other candidates for the election whose nomination papers have been accepted or rejected by the Returning officer.

(4) On presentation of the appeal the appellate authority shall forthwith send for the records of the case from the Returning Officer, and after perusing the same and holding such summary inquiry as it thinks fit decide the appeal and pass orders either confirming the decision of the Returning Officer or directing him to accept or reject the nomination paper in question and shall without delay send a copy of its orders to the Returning Officer :

Provided that no appeal shall be decided under this sub-section without giving the parties thereto in the prescribed manner an opportunity of being heard.

(5) On receipt of the order of the appellate authority the Returning Officer shall, where such authority has directed him to accept or reject any nomination paper, comply with such order.

(6) The decision of the appellate authority and, subject only to such decision, the decision of the Returning Officer accepting or rejecting any nomination paper under Chapter I of this Part shall be final and conclusive.

(7) Nothing in this section shall apply in relation to the first elections held under this Act.

CHAPTER III

Candidates and their agents

36. Appointment of election agents.—(1) Every person nominated as a candidate at an election shall, before the delivery of his nomination paper under sub-section (1) of section 28 or under that sub-section read with sub-section (3) of section 34, as the case may be, appoint in writing either himself or some one other person to be his election agent.

(2) When a candidate appoints some person other than himself to be his election agent he shall obtain in writing the acceptance by such person of the office of such election agent.

37. Disqualification for being an election agent.—No person shall be appointed an election agent who is disqualified from being an election agent under section 140.

38. Revocation of the appointment or death of an election agent.—(1) Any revocation of the appointment of an election agent, whether he be the candidate himself or not, shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before a return of the candidate's election expenses has been lodged in accordance with the provisions of section 71, the candidate shall appoint forthwith either himself or some other person to be his election agent in the manner provided in section 36, and shall give notice in writing of the appointment to the Returning Officer.

39. Effect of default in appointment of election agent under section 38.—(1) If the appointment of an election agent is revoked without a new appointment

being made, the candidate himself shall be deemed to have been appointed or re-appointed, as the case may be, his election agent.

(2) If the election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself his election agent as from the time of the death.

40. Duty of the election agent to keep accounts.—Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed.

41. Other functions of the election agent.—Every election agent shall perform such other functions in connection with each election for which he is appointed election agent as are required to be performed by or under this Act by such agent.

42. Appointment of polling agents.—A candidate who has been duly nominated under this Act and who has not withdrawn his candidature in the manner and within the time specified in sub-section (1) of section 32, or in that sub-section read with sub-section (3) of section 34, as the case may be, may, at least seven days before the commencement of the poll, appoint in the prescribed manner one agent and one relief agent and no more to act as his polling agent at each polling station, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer and to such other officer, as may be prescribed.

43. Appointment of counting agents.—Any such candidate as is mentioned in section 42 may, before the commencement of the poll, appoint in the prescribed manner one agent and no more to be present as his counting agent at the counting of votes, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

44. Revocation of the appointment or death of a polling agent or counting agent.—(1) Any revocation of the appointment of a polling agent or counting agent shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such revocation or of the death of polling agent or counting agent before the close of the poll, the candidate may appoint in the prescribed manner another polling agent or counting agent; as the case may be, at any time before the poll is closed, and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer and to such other officer as may be prescribed.

45. Functions of polling agents and counting agents.—(1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

46. Performance by a candidate of the functions of a polling agent or counting agent.—A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised by or under this Act to do, or may assist his polling or counting agent in doing any such act or thing.

47. Non-attendance of polling or counting agents.—Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purposes shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

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CHAPTER IV

General procedure at elections

48. Death of candidate before poll.—If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for anew election :

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll.

49. Procedure in contested and uncontested elections.—(1) If the number of candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of section 32, or in that sub-section read with sub-section (3) of section 34, as the case may be, exceeds the number of seats to be filled, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken.

(2) If the number of such candidates is equal to the number of seats to be filled, the Returning Officer shall declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the Returning Officer shall declare all such candidates to be elected and the appropriate authority shall, by notification in the official Gazette, call upon the constituency or the members of the State Legislative Assembly concerned, as the case may be, to elect a person or persons to fill the remaining seat or seats within such time as may be fixed by the Election Commission and specified in the notification.

Provided that where the constituency or the members of the State Legislative Assembly having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the appropriate authority shall not be bound to call again upon the constituency, or such members to elect a person or persons until such date as the Election Commission may specify in this behalf.

50. Special procedure at elections in constituencies where seats are reserved for scheduled castes or scheduled tribes.—(1) The provisions of this section shall apply in relation to any election in a constituency where the seats to be filled include one or more seats reserved for the scheduled castes or for the scheduled tribes (hereinafter referred to as "reserved seats").

(2) If the number of candidates qualified to be chosen to fill the reserved seats is equal to the number of such seats, all those candidates shall be declared to be elected to fill the reserved seats, and the procedure laid down in section 49 shall be followed for filling the remaining seat or seats.

(3) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of such seats, but the total number of candidates is equal to the total number of seats to be filled, the Returning Officer shall declare all the candidates to be duly elected to fill those seats.

(4) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of such seats, and the total number of candidates also exceeds the total number of seats to be filled, the procedure laid down in sub-section (1) of

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section 49 shall be followed; and after the poll has been taken, the Returning Officer shall first declare those who, being qualified to be chosen to fill the reserved seats, have secured the largest number of votes, to be duly elected to fill the reserved seats, and then declare such of the remaining candidates as have secured the largest number of votes to be duly elected, to fill the remaining seats.

Illustration.—At an election in a constituency to fill four seats of which two are reserved, there are six candidates A, B, C, D, E and F, and they secure votes in descending order, A securing the largest number. B, C and D are qualified to be chosen to fill the reserved seats, while A, E and F are not so qualified. The Returning Officer will first declare B and C duly elected to fill the two reserved seats, and then declare A and D (*not* A and E) to fill the remaining two seats.

(5) If the number of candidates qualified to be chosen to fill the reserved seats is less than the number of such seats,—

- (a) all those candidates shall be declared to be duly elected to fill reserved seats;
- (b) the procedure laid down in section 49 shall be followed for filling the seats other than the reserved seats; and
- (c) the appropriate authority shall, by notification in the official Gazette, call upon the constituency to elect a person or persons to fill the remaining reserved seat or seats within such time as may be fixed by the Election Commission and specified in the notification:

Provided that where a constituency having been already so called upon has failed to elect a person or the requisite number of persons to fill the reserved seat or seats, the appropriate authority shall not be bound to call again upon the constituency to elect a person or persons to fill the vacancy or vacancies until such date as the Election Commission may specify in this behalf.

(6) In this section, references to candidates shall be construed as references to candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of section 32.

51. Eligibility of members of scheduled castes or scheduled tribes to hold seats not reserved for those castes or tribes.—For the avoidance of doubt it is hereby declared that a member of the scheduled castes or of the scheduled tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seat under the Constitution and this Act.

CHAPTER V.

The Poll.

52. Fixing time for poll.—The appropriate authority shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner as may be prescribed.

53. Adjournment of poll in emergencies.—(1) If at an election the proceedings at any polling station provided under section 20 or at the place fixed under sub-section (1) of section 24 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, the failure of arrangements for taking the poll or other sufficient cause, the presiding officer for such polling station or the Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later and where the poll is so adjourned by a presiding officer, he shall forthwith inform the Returning Officer concerned.

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(2) Whenever a poll is adjourned under sub-section (1), Returning Officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not finally declare the result of the election until such adjourned poll shall have been completed and the votes cast thereat shall have been counted.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

(4) This section shall apply to any interruption or obstruction caused by persons being prevented by riot or open violence from proceeding to any polling station or place fixed for the poll, as the case may be, as well as to any interruption or obstruction caused in any other manner by riot or open violence.

54. Fresh poll in the case of destruction, etc. of ballot boxes.—(1) If at any election any ballot box or boxes is or are unlawfully taken out of the custody of the Returning Officer or of any presiding officer, or is or are in any way tampered with, or is or are either accidentally or intentionally destroyed or lost, the election to which such ballot box or boxes relate shall be void, but only in respect of the polling at the polling station or stations provided under section 20 or the place fixed under sub-section (1) of section 24 for the poll, as the case may be, at which such ballot box or boxes was or were used and no further.

(2) Whenever the polling at any polling station or stations or at the place fixed for the poll shall become void under sub-section (1), the Returning Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the appropriate authority and to the Election Commission and shall, with the previous approval of the Election Commission, appoint a day for the taking of a fresh poll in such or every such polling station or in such place fixed for the poll and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.

(3) In every such case as aforesaid the Returning Officer shall take a fresh poll in such or every such polling station or in such place fixed for the poll as aforesaid on the day so appointed by him, and shall notify the day so appointed and the hours of polling so fixed by him in such manner as the Election Commission may direct, and the provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

55. Manner of voting at elections.—At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

56. Special procedure for voting by certain classes of persons.—Provision may be made by rules made under this Act for enabling any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where poll is taken, namely—

(a) a member of the Armed Forces of the Union to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 (XLI of 1950), apply;

(b) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(c) a person who is employed under the Government of India in a post outside India;

(d) the wife of any such person as is referred to in clauses (a), (b) and (c) to whom the provisions of sub-section (6) of the said section 20 apply; and

(e) any person attending on official duty at a polling station in any constituency under the orders of, or authority from, the Returning Officer of such constituency.

57. Special procedure for preventing personation of voters.—Provision may also be made by rules made under this Act for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him and for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger so as to prevent personation of voters.

58. Right to vote.—(1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (XLI of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police, or is subjected to preventive detention under any law for the time being in force.

59. Method of voting.—(1) In plural member constituencies other than Council constituencies every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate.

(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (1), all the votes given by him to such candidate shall be void.

CHAPTER VI

Counting of Votes

60. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of the Returning Officer, and each candidate, his election agent and his counting agent, shall have a right to be present at the time of counting.

61. Equality of Votes.—If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

62. Declaration of result.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

63. Report of the result.—As soon as may be after the candidates have been declared elected to a House of Parliament or of the Legislature of a State, the Returning Officer shall report the result of the election to the Secretary of that House, the appropriate authority and the Election Commission, and the appropriate authority shall cause to be published in the official Gazette the declarations containing the names of the elected candidates.

CHAPTER VII

Multiple Elections

64. Vacation of seats when elected to both Houses of Parliament.—(1) Any person who is chosen a member of both the House of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission within ten days from the date of publication in the Gazette of India of the declarations that he has been so chosen or, if such publications have been made on different dates, within ten days from the latter of such dates, intimate in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

65. Vacation of seats by persons already members of one House on election to other House of Parliament.—(1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, on the publication in the Gazette of India of the declaration that he has been so chosen, become vacant.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People, his seat in the Council of States shall, on the publication in the Gazette of India of the declaration that he has been so chosen, become vacant.

66. Election to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.—If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats, all the seats shall become vacant.

CHAPTER VIII

Publication of election results and nominations

67. Publication of results of elections to the Council of States and of names of persons nominated by the President.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of section 8, there shall be notified by the appropriate authority in the official Gazette the names of the members elected by elected members of the Legislative Assemblies of the States and for the various Council of States constituencies at the said elections together with the names of the persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 8, there shall be notified by the appropriate

authority in the official Gazette the names of the members elected by the elected members of the Legislative Assemblies of the States and for the various Council of States constituencies at the said elections together with the names of any persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 63 and shall be made as soon as may be after the expiration of the time fixed for the election of members under sub-section (1) or, as the case may be, sub-section (2) of section 8, and after the publication of the notification or notifications containing the names of persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

68. Publication of results of general elections to the House of the People and of names of persons nominated by the President.—As soon as may be after the expiration of the time fixed for the election of members to the House of the People at any general election, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Parliamentary constituencies at such election together with the names of persons, if any, nominated by the President to the House under article 331 or under any other provisions, and such notification shall be in addition to the publication of the declarations under section 63.

69. Publication of results of general elections to the State Legislative Assemblies and of names of persons nominated to such Assemblies.—As soon as may be after the expiration of the time fixed for the election of members to the Legislative Assembly of a State at any general election, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Assembly constituencies at such election together with the names of persons, if any, nominated by the Governor or Rajpramukh, as the case may be, of the State under article 333 or under any other provisions and such notification shall be in addition to the publication of the declarations under section 63.

70. Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of section 13, there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of the persons nominated by the Governor or Rajpramukh, as the case may be, of the State under sub-clause (e) of clause (3) of article 171.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 13 there shall be notified by the appropriate authority in the official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor or Rajpramukh, as the case may be, under sub-clause (e) of clause (3) of article 171.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 63 and shall be made as soon as may be after the expiration of the time fixed for the election of members under sub-section (1), or as the case may be, sub-section (2) of section 13, and after the publication of the notification containing the names of persons nominated by the Governor or the Rajpramukh, as the case may be, under sub-clause (e) of clause (3) of article 171.

CHAPTER IX *h 2**Election expenses*

71. Return of election expenses.—(1) Within the prescribed time after every election there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate, a return of the election expenses of that person signed both by him and his election agent.

(2) Every such return shall be in such form and shall contain such particulars as may be prescribed, and shall be accompanied by declarations in the prescribed form by the candidate and his election agent made on oath or solemn affirmation before a Magistrate.

(3) Notwithstanding anything in this section, where owing to absence from India a candidate is unable to sign the return of election expenses and to make the required declaration, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent only, and the candidate shall within fourteen days after his return to India, cause to be lodged with the Returning Officer a declaration made on oath or solemn affirmation before a Magistrate in such form as may be prescribed.

72. Maximum election expenses, etc.—The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with election shall be such as may be prescribed.

73. Application of this Chapter to elections by the members of a State Legislative Assembly to fill seats in the Council of States or in the State Legislative Council.—Except so far as may be prescribed, this Chapter shall not apply to an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or to an election by the members of the Legislative Assembly of a State to fill seats in the Legislative Council of that State.

PART VI

DISPUTES REGARDING ELECTIONS

CHAPTER I

Interpretation

74. Definitions.—In this Part and in Parts VII and VIII, unless the context otherwise requires,—

- (a) “agent” includes an election agent, a polling agent and a counting agent and any person who, on the trial of an election petition or of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;
- (b) “candidate” means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) “costs” means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (d) “electoral right” means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election;

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(e) "pleader" means any person entitled to appear in a civil court and includes an advocate, a vakil or a High Court;

(f) "returned candidate" means a candidate whose name has been published under section 63 as duly elected.

CHAPTER II

Presentation of Election Petitions to Election Commission.

75. Election petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

76. Presentation of petitions.—(1) An election petition against any returned candidate may be presented to the Election Commission, in such form and within such time as may be prescribed,—

- (a) by a candidate or elector on one or more of the grounds specified in clauses (a) to (c) of sub-section (1) of section 95, clauses (a) to (c) of sub-section (2) of that section and clauses (a) and (b) of section 96;
- (b) by an officer empowered in this behalf by the appropriate authority, on the ground that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election.

(2) An election petition shall be deemed to have been presented to the Election Commission when it is delivered to the Secretary to the Commission or to such other officer, as may be authorised by the Election Commission in this behalf—

- (a) by the person making the petition; or
- (b) by a person authorised in writing in this behalf by the person making the petition; or
- (c) by registered post.

77. Parties to the petition.—A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.

78. Contents of petition.—(1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure 1908 (Act V of 1908) for the verification of pleadings.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.

(3) The Tribunal may, upon such terms as to costs and otherwise as it may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in its opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

79. Relief that may be claimed by the petitioner.—A petitioner may claim any one of the following declarations :—

- (a) that the election of the returned candidate is void;
- (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected;
- (c) that the election is wholly void.

80. Petition when to be dismissed.—If the provisions of section 76, section 78 or section 112 are not complied with, the Election Commission shall dismiss the petition :

Provided that if a person making the petition satisfies the Election Commission that sufficient cause existed for his failure to present the petition within the period prescribed therefor, the Election Commission may in its discretion condone such failure.

CHAPTER III

Trial of election petitions

81. Appointment of Election Tribunal.—(1) If the petition is not dismissed under section 80; the Election Commission shall appoint an Election Tribunal for the trial of the petition.

(2) For the purpose of constituting such Tribunals the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir)—

(a) a list of such officers of not less than 10 years' standing belonging to the judicial service of the State as are in the opinion of the High Court fit to be appointed as members of the Election Tribunals, and

(b) a list of advocates of that High Court who have been in practice for a period of not less than 10 years and who are in the opinion of the High Court fit to be appointed as such members,

and shall maintain the lists by making such alterations therein as the High Court may from time to time direct.

(3) Every Tribunal appointed under sub-section (1) shall consist of—

(a) a Chairman, who shall be a district judge selected by the Election Commission from the lists of judicial officers maintained by it under sub-section (2); and

(b) one other member, who shall be either a judicial officer or an advocate selected by the Election Commission from any of the lists maintained by it under sub-section (2):

Provided that where the petition for the trial of which a Tribunal is to be appointed is in respect of an election to the Legislative Assembly or the Legislative Council of a State, no member of the Tribunal shall be selected from the list of judicial officers pertaining to another State except with the consent of the Government of the other State:

Provided further that nothing in this sub-section shall be deemed to prevent the appointment of a Chairman of the Tribunal before that of the other member.

(4) If during the course of the trial, any member of a Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Election Commission shall appoint another member in accordance with the provisions of sub-section (3), and upon his joining the Tribunal the trial shall be continued as if he had been on the Tribunal from the commencement of the trial:

Provided that the Tribunal may, if it thinks fit, recall and re-examine any of the witnesses already examined.

(5) References to the Tribunal in this Part shall, as respects any matter to be done before the commencement of the trial, be deemed to be references to the Chairman of the Tribunal.

(6) In this section, the expressions "district judge" and "judicial service" have the same meanings as in article 236.

82. Connected petitions to be referred to same Tribunal.—Where more petitions than one are presented in respect of the same election, the Election Commission shall refer all of them to the same Tribunal, which may, in its discretion try them separately or in one or more groups.

83. Place of trial.—The trial shall be held at such place as the Election Commission may appoint :

Provided that a Tribunal may, in its discretion, sit for any part of the trial at any other place in the State in which the election to which the petition relates has taken place.

84. Attendance of law officers.—(1) The Tribunal may, in the case of an election petition in relation to an election to fill a seat in either House of Parliament, require the Attorney-General of India or the Advocate-General of the State in which the election has taken place or some person acting under the instructions of the Attorney-General or such Advocate-General; and in the case of an election petition in relation to an election to fill a seat in the House or either House of the Legislature of a State, require the Advocate-General of the State in which the election has taken place or some person acting under his instructions, to attend at the trial.

(2) The Attorney-General or the Advocate-General or the person acting under the instructions of the Attorney-General or the Advocate-General, as the case may be, shall, when so required, attend at the trial and shall take such part therein as the Tribunal may direct.

85. Procedure before the Tribunal.—(1) The Tribunal shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the official Gazette, and at any time within fourteen days after such publication, any other candidate shall subject to the provisions of section 114, be entitled to be joined as a respondent.

(2) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908), to the trial of suits :

Provided that it shall only be necessary for the Tribunal to make a memorandum of the substance of the evidence of any witness examined by the Tribunal :

Provided further that the Tribunal shall have the discretion to refuse to examine any witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(3) The provisions of the Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

(4) Notwithstanding anything contained in section 80, the Tribunal may dismiss an election petition which does not comply with the provisions of section 76, section 78 or section 112 :

Provided that an election petition shall not be dismissed under this sub-section for non-compliance with the provision of section 76 as to the presentation of the petition within the prescribed time if the failure to comply with such provision has been condoned by the Election Commission under the proviso to section 80.

86. Appearance before Tribunal.—Any appearance, application or act before the Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that any such appearance shall, whenever the Tribunal so directs, be made by the party in person.

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87. Powers of the Tribunal.—The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters :—

- (a) discovery and inspection ;
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;
- (c) compelling the production of documents ;
- (d) examining witnesses on oath ;
- (e) granting adjournments ;
- (f) reception of evidence taken on affidavit ; and
- (g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to it to be material ; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Tribunal shall be the limits of the State in which the election was held.

88. Documentary evidence.—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

89. Secrecy of voting not to be infringed.—No witness or other person shall be required to state for whom he has voted at an election.

90. Answering of criminating questions and certificate of indemnity.—(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :

Provided that—

- (a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal ; and
- (b) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act XLV of 1860) or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

91. Expenses of witnesses.—The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Tribunal to such person, and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

92. Recrimination when seat claimed.—(1) When at a trial of an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the

date of the publication of the election petition under section 85, given notice to the Tribunal of his intention to do so and has also given the security and the further security referred to in sections 112 and 113, respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and list of particulars required by section 78 in the case of an election petition and shall be signed and verified in like manner.

93. Decision of the Tribunal.—At the conclusion of the trial of an election petition the Tribunal shall make an order—

- (a) dismissing the election petition ; or
- (b) declaring the election of the returned candidate to be void ; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or
- (d) declaring the election to be wholly void.

94. Other orders to be made by the Tribunal.—(1) At the time of making an order under section 93 the Tribunal shall also make an order—

- (a) where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, recording—
 - (i) a finding whether any corrupt or illegal practice has or has not been proved to have been committed by, or with the connivance of any candidate or his agent at the election, and the nature of that corrupt or illegal practice ; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and the nature of that practice, together with any such recommendations as the Tribunal may think proper to make for the exemption of any person from any disqualifications which they may have incurred in this connection under sections 136 to 138 ; and
- (b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid :

Provided that no person shall be named in the order under sub-clause (ii) of clause (a) unless he has been given a reasonable opportunity of showing cause why he should not be so named.

(2) Any order as to costs under clause (b) of sub-section (1) may include a direction for the payment of costs to the law officer attending the trial in pursuance of any requisition of the Tribunal under section 84.

95. Grounds for declaring election to be void.—(1) If the Tribunal is of opinion—

- (a) that the election has not been a free election by reason that the corrupt practice of bribery or undue influence has extensively prevailed at the election ; or
- (b) that the election has not been a free election by reason that coercion or intimidation has been exercised or resorted to by any particular community, group or section on another community, group or section, to vote or not to vote in any particular way at the election ; or
- (c) that in the case of the first elections under this Act, the result of the election has been materially affected by the improper acceptance or rejection of any nomination,

the Tribunal shall declare the election to be wholly void.

(2) Subject to the provisions of sub-section 3, if the Tribunal is of opinion—

- (a) that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice ; or

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- (b) that any corrupt practice specified in section 118 has been committed in the interests of a returned candidate; or
 - (c) that the result of the election has been materially affected by the improper reception or refusal of a vote or by the reception of any vote which is void, or by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form;

the Tribunal shall declare the election of the returned candidate to be void.

(3) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice specified in section 118, but the Tribunal is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent;
- (b) that all such corrupt practices were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election;
- (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents,

then the Tribunal may decide that the election of the returned candidate is not void.

96. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate claimed a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes; or
- (b) that but for the votes obtained by the returned candidate by corrupt or illegal practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

97. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then—

- (a) any decision made by the Returning Officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
- (b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

98. Supply of orders to the Election Commission and the transmission of the records of the case.—The Tribunal shall, after announcing the orders made under

sections 93 and 94, send a copy thereof to the Election Commission and the records of the case to the District Judge of the District within which the place of trial appointed under section 83 is situate, or if such place is in a presidency-town, to the Chief Judge of the Court of Small Causes having jurisdiction there, as the case may be.

99. Difference of opinion among the members of the Tribunal.—(1) If during the trial of an election petition there is a difference of opinion among the members of the Tribunal on any matter, the opinion of the Chairman shall, subject to the opinion, if any, expressed by the High Court on such matter on a reference made to that Court under sub-section (2), prevail.

(2) If at the conclusion of the trial of an election petition there is a difference of opinion among the members of the Tribunal on any question regarding the orders to be made under section 93 or section 94, the Tribunal shall state the question and refer it together with the opinion of each of its members, to the High Court for its opinion.

(3) The High Court shall, after giving the parties an opportunity of being heard, decide the question so referred for its opinion, and shall cause a copy of its opinion to be transmitted to the Tribunal; and the Tribunal shall, on receipt thereof, proceed to dispose of the election petition in conformity with the opinion of the High Court.

(4) Any opinion expressed by the High Court on an election petition referred to it by the Tribunal under this section shall be final and conclusive and shall be deemed to be the opinion of the Tribunal for the purposes of this Act.

(5) For the purposes of this section "the High Court" means—

(a) where the election to which the appeal relates has taken place in a Part A State or a Part B State, the High Court of that State;

(b) where such election has taken place in Ajmer or Vindhya Pradesh, the High Court at Allahabad;

(c) where such election has taken place in Bhopal, the High Court at Nagpur;

(d) where such election has taken place in Bilaspur, Delhi or Himachal Pradesh, the High Court of Punjab;

(e) where such election has taken place in Coorg, the High Court at Madras;

(f) where such election has taken place in Kutch, the High Court at Bombay; and

(g) where such election has taken place in Manipur or Tripura, the High Court of Assam.

100. Orders of the Tribunal to be final.—Every order of the Tribunal made under this Act shall be final and no appeal shall lie therefrom to any authority or power.

101. Transmission of final order to the Election Commission, etc., and its publication.—As soon as may be after the receipt of any order made by the Tribunal under section 93 or section 94, the Election Commission shall forward copies of the order to the appropriate authority and to the Speaker or Chairman, as the case may be, of the House concerned, and shall cause the order to be published in Gazette of India and in the official Gazette of the State concerned.

102. Orders to take effect only on publication.—An order of the Tribunal under section 93 or section 94 shall not take effect until it is published in the Gazette of India under section 101.

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CHAPTER IV

Withdrawal and abatement of election petitions.

103. Withdrawal of petitions before appointment of Tribunal.—An election petition may be withdrawn only by leave of the Election Commission if an application for its withdrawal is made before any Tribunal has been appointed for the trial of such petition.

104. Withdrawal of petitions after appointment of Tribunal.—(1) Where an application for withdrawal of an election petition is made after a Tribunal has been appointed for the trial of such petition, the election petition may be withdrawn only by leave of the Tribunal.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the official Gazette.

105. Procedure for withdrawal of petitions before the Election Commission or the Tribunal.—(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if in the opinion of the Election Commission or of the Tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted—

(a) the petitioner shall, where the application has been made to the Tribunal, be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Tribunal may think fit;

(b) notice of the withdrawal shall be published in the official Gazette by the Election Commission or by the Tribunal, as the case may be;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of section 112 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

106. Report of withdrawal by the Tribunal to the Election Commission.—When an application for withdrawal is granted by the Tribunal and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 105, in place of the party withdrawing, the Tribunal shall report the fact to the Election Commission.

107. Abatement of election petitions.—An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners:

Provided that where such sole petitioner was an officer empowered under clause (b) of sub-section (1) of section 76, the proceedings shall be continued by such other officer as may be empowered in this behalf by the appropriate authority.

108. Abatement of petition before appointment of Tribunal.—If an election petition abates under section 107 before a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the official Gazette by the Election Commission.

109. Abatement of petition after appointment of Tribunal.—Where an election petition abates under section 107 after a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the official Gazette by the Tribunal.

110. Substitution on death of petitioner.—After a notice of the abatement of an election petition is published under section 108 or section 109, any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions of section 112 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

111. Abatement or substitution on death of respondent.—If before the conclusion of the trial of an election petition, the respondent dies or gives notice that he does not intend to oppose the petition, the Tribunal shall cause notice of such event to be published in the official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

CHAPTER V.

Costs and security for costs.

112. Deposit of security.—Except where an election petition is presented under clause (b) of sub-section (1) of section 76, the petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of one thousand rupees has been made by him either in a Government Treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the petition.

113. Further security for costs.—During the course of the trial of an election petition the Tribunal may at any time call upon the petitioner to give such further security for costs as it may direct, and may, if he fails to do so, dismiss the petition:

Provided that the petitioner shall not be required to give any security where the petition has been presented under clause (b) of sub-section (1) of section 76.

114. Security for costs from a respondent.—No person shall be entitled to be joined as a respondent under sub-section (1) of section 85 unless he has given such security for costs as the Tribunal may direct.

115. Costs.—(1) costs including pleaders fees shall be in the discretion of the Tribunal.

(2) The Tribunal may allow interest on costs at a rate not exceeding six per cent per annum, and such interest shall be added to be costs.

116. Payment of costs out of security deposits and return of such deposits.—If in any final order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf to the Election Commission by the person in whose favour the costs have been awarded within a period of six months from the publication of such final order under section 101; and if there is any balance left of any of the said security deposits after payment of such costs, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits may on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representatives of such person, be returned to the said person or to his legal representatives, as the case may be.

117. Execution of orders as to costs.—Any final order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within a presidency town, before the Court of Small Causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under section 116, no application shall lie under this section within a period of six months from the date of publication of such final order under section 101 unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under section 116 owing to the insufficiency of the amount of the security deposits referred to in that section.

PART VII.

CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES.

CHAPTER I.

Corrupt Practices.

118. Corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act:—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bona fide* incurred at or for the purpose of, any election and duly entered in the return of election expenses referred to in section 71.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—

(i) threatens any candidate, his agent, or any elector, or any person in whom a candidate, his agent or an elector is interested, with any injury of any kind; or

(ii) induces or attempts to induce a candidate, his agent or an elector to believe that he, or any person in whom he is interested, will

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become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate, agent or elector within the meaning of this clause ;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(4) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent.

(5) The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any voter to or from any place for the purpose of recording his vote :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to or from the polling station shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “ vehicle ” means any vehicle used or capital of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

(7) The incurring or authorising by a candidate or his agent of expenditure, or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule thereunder.

(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State other than the giving of vote by such person.

119. Certain other corrupt practices.—The following shall also be deemed to be corrupt practices for the purposes of this Act :—

(1) Any act specified in clauses (1) to (8) of section 118, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

(2) The application by a person at an election for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(3) The receipt of, or agreement to receive, any gratification whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation.—For the purposes of this clause the term “gratification” has the same meaning as it has for the purposes of clause (1) of section 118.

(4) The making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return.

(5) The use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for furtherance of the prospects of a candidate's election.

CHAPTER II.

Illegal Practices.

120. Illegal Practices.—The following shall be deemed to be illegal practices for the purposes of this Act:—

(1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

(2) The hiring, using or letting, as a committee room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

(3) The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

CHAPTER III.

Electoral Offences.

121. Prohibition of election meetings on the election day and the day preceding such day.—(1) No person shall convene, hold or attend any political meeting within any constituency on the date or dates on which poll is taken for an election in that constituency or on the day immediately preceding that date or the first of those dates.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

122. Disturbances at election meetings.—(1) Any person who at a public meeting to which this section applies, acts or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any political meeting held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

123. Maintenance of secrecy of voting.—(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy, of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

124. Officers, etc., at elections not to act for candidates or to influence voting.—(1) No person who is a Returning Officer, or an Assistant Returning Officer, or presiding or polling officer at an election, or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election shall act as an agent of a candidate in the conduct or the management of the election.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment, which may extend to three months or with fine or with both.

125. Prohibition of canvassing in or near polling stations.—(1) No person shall, during the hours fixed for the poll at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely:—

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

126. Penalty for disorderly conduct in or near polling stations.—(1) No person shall, during the hours fixed for the poll at any polling station,—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll; or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

127. Penalty for misconduct at the polling station.—(1) Any person who, during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

128. Penalty for illegal hiring or procuring conveyances at elections.—If any person is guilty of any such corrupt practice as is specified in clause (6) of section 118 at or in connection with an election, he shall be punishable with fine which may extend to two hundred and fifty rupees.

129. Breaches of official duty in connection with elections.—(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the Electoral Registration Officers, Returning Officers, Assistant Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of an electoral roll, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election; and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950.

130. Removal of ballot papers from polling station to be an offence.—(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer;

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

131. Other offences and penalties therefor.—(1) A person shall be guilty of an electoral offence if at any election he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper ;
or
- (b) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot ;
or
- (c) without due authority supplies any ballot paper to any person ; or
- (d) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in : or
- (e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election ; or
- (f) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an electoral offence under this section shall—

- (a) if he is a Returning Officer or an Assistant Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both ;
- (b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression “ official duty ” shall not include any duty imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

132. Special provisions for complaint regarding certain offences.—No court shall take cognizance of any offence punishable under section 129 or under clause (a) of sub-section (2) of section 131 unless there is a complaint made by order of, or under authority from, the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned.

133. Amendment of Act V of 1898.—In the Code of Criminal Procedure, 1898—

- (a) in section 196, after the word and figures “ section 127 ”, the words, figures and letter “ and section 171-F, so far as it relates to the offence of personation ” shall be inserted ;

(b) in Schedule II—

- (i) in the entry relating to section 171-F of the Indian Penal Code (Act XLV of 1860 from the paragraph in column 2, the words “ and personation ” shall be omitted ;

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(ii) after the paragraph in column 2 of the said entry as so amended, the following paragraph shall be inserted, namely :—

“ Personation at an election.” ;

(iii) in column 3. opposite the paragraph inserted by sub-clause (ii), the following paragraph shall be inserted, namely :—

“ May arrest without warrant ;”

(iv) in columns 4, 5, 6, 7 and 8, opposite the paragraph inserted by sub-clause (ii), the word “ Ditto ” shall be inserted ;

(v) in the entry relating to section 171-G of the Indian Penal Code, in column 3, for the word “ Ditto ” the words “ shall not arrest without warrant ” shall be substituted.

PART VIII

DISQUALIFICATIONS

CHAPTER I

Disqualifications for membership

134. Offences entailing disqualification.—(1) The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely :—

(a) offences punishable with imprisonment under section 171E or 171F of the Indian Penal Code, and

(b) offences punishable under section 130 or clause (a) of sub-section (2) of section 131 of this Act.

(2) The period of such disqualification shall be six years from date of the conviction for the offence.

135. Corrupt and illegal practices entailing disqualifications.—(1) The following corrupt or illegal practices shall entail disqualification for membership of Parliament and or the Legislature of every State, namely :—

(a) corrupt practices specified in section 118 or section 119 in relation to elections as defined in section 2 ; and

(b) illegal practices specified in section 120 in relation to elections as defined in section 2 other than the elections by members of the Legislative Assembly of a State to fill seats in the Council of States or the Legislative Council of that State.

(2) The period of such disqualification shall be six years in the case of a corrupt practice, and four years in the case of an illegal practice, counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act.

CHAPTER II

Disqualification for voting

136. Disqualification arising out of conviction and corrupt practices.—If any person after the commencement of this Act—

(a) is convicted of an offence punishable under any of the provisions of Chapter III of Part VII of this Act or Chapter IX A of the Indian Penal Code (Act XLV of 1860) with imprisonment for a term exceeding six months, or

(b) is, upon the trial of an election petition under Part VI of this Act, found guilty of any corrupt practice,

he shall, for a period of six years from the date of the conviction or from the date on which such finding takes effect, be disqualified from voting at any election.

137. Disqualification arising out of illegal practices.—If, in relation to any election, (other than an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of that State), any person is, upon the trial of an election petition under Part VI of this Act, found guilty of illegal practice, he shall be disqualified for voting at any election for a period of four years from the date on which such finding takes effect.

138. Disqualification arising out of failure to lodge return of election expenses.—If default is made in making the return of the election expenses of any person who has been nominated as a candidate at an election to which the provisions of Chapter IX of Part V of this Act apply, or if such a return is found either upon the trial of an election petition under Part VI of this Act or by any court in a judicial proceeding, to be false in any material particular, the candidate and his election agent shall be disqualified for voting at any election for a period of five years from the date by which the return was required to be lodged.

139. Removal of disqualifications.—Any disqualification under this Chapter may be removed by the Election Commission for reasons to be recorded by it in writing.

CHAPTER III

Other Disqualifications

140. Disqualification for being an election agent.—Any person who is for the time being disqualified under the forgoing provisions of this Part for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

141. Disqualification for holding certain offices.—Any person who has been convicted of an offence under section 171-E or section 171-F of the Indian Penal Code (Act XLV of 1860), or has been disqualified from exercising any electoral right for a period of not less than five years on account of any corrupt practices in connection with an election shall be disqualified for five years from the date of such conviction or disqualification from—

- (a) being appointed to, or acting in, any judicial office ;
- (b) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;
- (c) being elected or sitting or voting as a member of any local authority ;
- or
- (d) being appointed or acting as a trustee of a public trust :

Provided that any such disqualification may be removed by the Election Commission.

PART IX

BYE-ELECTIONS

142. Casual vacancies in the Council of States.—When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the President shall by a notification in the Gazette of India call upon the members

of the Legislative Assembly of the State concerned or the Council of States constituency concerned, as the case may be, to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the said notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

143. Casual vacancies in the House of the People.—(1) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the President shall, subject to the provisions of sub-section (2) by a notification in the Gazette of India, call upon the Parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the scheduled castes or for the scheduled tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the scheduled castes or to the scheduled tribes, as the case may be.

144. Casual vacancies in the State Legislative Assemblies.—(1) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Governor or the Rajpramukh of the State, as the case may be, shall, subject to the provisions of sub-section (2), by a notification in the official Gazette, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the scheduled castes or for the scheduled tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the scheduled castes or to the scheduled tribes, as the case may be.

145. Casual vacancies in the State Legislative Councils.—When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to the Legislative Council is declared void, the Governor, or the Rajpramukh of the State as the case may be, shall by a notification in the official Gazette call upon the Council Constituency concerned are the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused; within such time as may be appointed in this behalf by the Election Commission and specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

PART X

MISCELLANEOUS

146. List of members of the State Legislative Assembly to be maintained by the Returning Officer.—(1) The Returning Officer for an election by the members of the Legislative Assembly of a State to fill seats in the Council of States or in the Legislative Council of the State shall for the purposes of such election maintain at his office in the prescribed manner and form a list of members of that Legislative Assembly.

(2) Copies of the list shall be made available in the prescribed manner to members of the Legislative Assembly.

147. Extension of time for completion of election.—(1) It shall be competent for the Election Commission for reasons which it considers sufficient to extend the time appointed by such Commission under the provisions of sub-section (1) or sub-section (2) of section 8, or section 10, or section 12, or sub-section (1) or sub-section (2) of section 13 for the completion of any general or biennial election, or the time appointed by such Commission under any of the provisions of Part IX for the completion of any election to fill a casual vacancy.

(2) When the time for the completion of any election is so extended, the President or the Governor or Rajpramukh of the State, as the case may be, shall by notification in the official Gazette make the necessary amendments in the notification issued in respect of such election under any of the provisions referred to in sub-section (1).

148. Term of office of members of the Council of States.—(1) The term of office of a member elected to fill the seat in the Council of States to be filled by the representative of the States of Ajmer and Coorg and of a member nominated to fill the seat in that Council to be filled by the representative of the States of Manipur and Tripura, other than a member chosen to fill a casual vacancy in either of those seats, shall be two years.

(2) Subject as aforesaid, the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council of States the President, shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(3) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

149. Commencement of term of office of members of the Council of States.—(1) The term of office of a member of the Council of States whose name is required to be notified in the official Gazette under section 67 shall begin on the date of such notification.

(2) The Term of office of a member of the Council of States whose name is not required to be notified under section 67 shall begin on the date of publication in the official Gazette of the declaration containing the name of such person as elected under section 63 or of the notification issued under sub-clause (a) of clause (1) of article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

150. Term of office of members of State Legislative Councils.—(1) The term of office of a member of the Legislative Council of a State, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor or the Rajpramukh, as the case may be, shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(2) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

151. Commencement of the term of office of members of the Legislative Councils.—(1) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the official Gazette under section 70 shall begin on the date of such notification.

(2) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under section 70 shall begin on the date of publication in the official Gazette of the declaration containing the name of such person as elected under section 63 or of the notification issued under sub-clause (e) of clause (3) of article 171, announcing the nomination of such person to the Council, as the case may be.

152. Return or forfeiture of deposits.—(1) If a candidate by whom the deposit referred to in section 29 or in that section read with sub-section (3) of section 34 has been made withdraws his candidature in the manner and within the time specified in sub-section (1) of section 32 or in that sub-section read with the said sub-section (3), or if the nomination of any such candidate is rejected, the deposit shall be returned to him; and if a candidate dies before the commencement of the poll, the deposit made by him shall be returned to his legal representatives.

(2) If a candidate nominated under section 27 by whom a deposit has been made under section 29 is not elected, and the number of votes polled by him does not exceed one-eighth of the total number of votes polled or, in the case of a constituency returning more than one member, one eighth of the total number of votes polled divided by the total number of members to be elected, the deposit shall be forfeited to the appropriate authority.

(3) For the purpose of sub-section (2), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

(4) The deposit made by a candidate under section 29 or under that section read with sub-section (3) of section 34, shall, where it is not forfeited under sub-section (2), be returned to him after the publication of the result of the election in the official Gazette :

Provided that if a candidate is duly nominated at a general election in more than one Parliamentary constituency or Council of States or Assembly constituency, not more than one of the deposits made by him shall be returned, and the remainder shall be forfeited to the appropriate authority:•

Provided further that if a candidate is duly nominated at an election in more than one Council constituency or at an election in a Council constituency and an election by the members of the State Legislative Assembly to fill seats in the State Legislative Council, not more than one of the deposits made by him shall be returned, and the remainder shall be forfeited to the State Government.

153. Requisitioning of premises, vehicles, etc, for election purposes.—(1) If it appears to the State Government that in connection with an election held within State—

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election.

that Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) In this section—

- (a) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;
- (b) “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

154. Payment of compensation.—(1) Whenever in pursuance of section 153 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

- (i) the rent payable in respect of the premises or if no rent is so payable; the rent payable for similar premises in the locality;
- (ii) if in consequence of the requisition of the premises the person interested is compelled, to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means any person claiming an interest in compensation payable for the requisitioning of any premises under section 153.

(2) Whenever in pursuance of section 153 the State Government requisitions any vehicle, vessel or animal, there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

155. Power to obtain information.—The State Government may, with a view to requisitioning any property under section 153 or determining the compensation payable under section 154, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

156. Powers of entry into and inspection of premises, etc.—(1) Any person authorised in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of

determining whether, and if so, in what manner an order under section 153 should be made in relation to such premises, vehicle, vessel or animal or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions "premises" and "vehicle" have the same meanings as in section 153.

157. Eviction from requisitioned premises.—(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 153 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

158. Release of premises from requisition.—When any premises requisitioned under section 153 is to be released from requisition the possession thereof shall be delivered to the person deemed by the State Government to be the owner of such premises or to any other person from whom possession was taken at the time when the premises was requisitioned, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

159. Delegation of functions of the State Government with regard to requisitioning.—The State Government may, by notification in the official Gazette, direct that any powers conferred or any duty imposed on that government by any of the provisions of sections 153 to 158 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

160. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 153 or section 155, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

PART XI

GENERAL

161. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the duties of presiding officers and polling officers at polling stations;
- (b) the checking of voters by reference to the electoral roll;
- (c) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;
- (d) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;
- (e) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;

(f) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election ;

(g) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers ;

(h) any other matter required to be prescribed by this Act.

162. Jurisdiction of civil courts barred.—No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

163. Repeal of Act XXXIX of 1920.—The Indian Elections Offences and Enquiries Act, 1920, is hereby repealed :

Provided that such repeal shall not affect any inquiry in respect of an election to fill any casual vacancy referred to in clause (1) or clause (2) of article 388 by an Election Tribunal appointed for that purpose by the Election Commission, and the provisions of the said Act shall apply in relation to such election and inquiry notwithstanding such repeal subject to any order made by the President under the said clause (1) or clause (2), as the case may be.

STATEMENT OF OBJECTS AND REASONS

During the last Budget Session of Parliament the Representation of the People Act, 1950, was passed. It did not contain all the provisions relating to elections but merely provided for the allocation of seats in, and the delimitation of, constituencies for the purpose of elections to the House of the People and the Legislatures of States, the qualifications of voters at such elections and the preparation of electoral rolls. Provisions for the actual conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of these Houses, the corrupt and illegal practices and other election offences, and the decision of election disputes were all left to be made in a subsequent measure. The Bill seeks to make those provisions.

B. R. AMBEDKAR.

NEW DELHI ;

The 13th December, 1950.

NOTES ON CLAUSES

Clauses 3 to 6.—Articles 84 and 173 of the Constitution have laid down certain qualifications for membership of Parliament and of the State Legislatures and have left it to Parliament to prescribe such further qualifications as it may consider necessary. Clauses 3 to 6 seek to prescribe these further qualifications for membership.

It is proposed to amend the Representation of the People Act, 1950, to include therein appropriate provisions for the filling of the seat in the Council of States allotted to the States of Manipur and Tripura by nomination by the President and for the filling of the seats in the said Council allotted to other Part C States by election held in territorial constituencies (to be known as Council of States constituencies) by special electorates constituted for the purpose based on a restricted franchise.

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Clause 4 enables any person whose name is included in the electoral roll of any Parliamentary constituency to stand as a candidate for any seat, not only in that constituency, but also in any other Parliamentary constituency. This clause also enables a person whose name is included in the electoral roll of a Parliamentary constituency to stand as a candidate for any seat in the House of the People reserved for scheduled castes in any State if such person is a member of any of the scheduled castes whether of that State or of any other State.

Provision has been made in *Clause 5* for enabling any person whose name is included in the electoral roll of any Assembly constituency in a State to stand as a candidate for any seat in that constituency or in any other Assembly constituency of that State.

Clause 6 enables any person whose name is included in the electoral roll of any Assembly constituency in a State to stand as a candidate for any seat in any Constituency in that State.

Clause 7.—Articles 102(1) and 191(1) of the Constitution have laid down certain disqualifications for membership of Parliament and of the Legislatures of States and have left it to Parliament to prescribe by law such further disqualifications as it may consider necessary. Clause 7 provides for these further disqualifications for membership of Parliament or of a State Legislature. The provisions included in this clause are based on similar provisions contained in section 69 of the Government of India Act, 1935.

Clauses 8, 10, 12 and 13 provide that the notification calling upon a constituency or the members of the Legislative Assembly of a State to elect members at a general election or, in the case of elections to fill seats in the Council of States or the Legislative Council of a State, at a biennial election, shall be issued by the President where the election is to fill a seat in either House of Parliament and by the Governor or Rajpramukh of the State where the election is to fill a seat in the House or either House of the Legislature of a State, and that the date for the completion of the election to be specified in any such notification shall be the date fixed in this behalf by the Election Commission.

Clauses 25 to 34 deal with nomination of candidates at elections, deposits at the time of nomination, scrutiny of nominations and withdrawal of candidatures. These provisions are more or less on the lines of similar provisions at present in force in the various States for elections to the Legislatures of States. Power has been conferred on the Returning Officers by the proviso to sub-clause (5) of clause 28 of the Bill to permit any clerical error in the nomination paper to be corrected, or to direct any clerical or printing error in the electoral roll to be overlooked, so as to minimise the possibility of rejection of nomination papers on technical grounds. A lower amount of deposit has been prescribed for candidates belonging to the scheduled castes and scheduled tribes.

Clause 35 provides for appeal from the decision of the Returning Officer accepting or rejecting any nomination to an appellate authority to be appointed in this behalf by the Election Commission. It has been provided in this clause that the decision of the appellate authority and, subject only to such decision, the decision of the Returning Officer accepting or rejecting a nomination paper will be final, so that any question as to the validity of any nomination paper may not be raised afterwards before the Election Tribunal. This procedure will avoid the incurring of large expenditure in contesting an election which is afterwards declared void on account of the invalidity of a nomination paper. In view of the shortness of time within which the first elections will have to be held the application of the provisions of this clause to the first elections has been specifically excluded.

Clauses 50 and 51.—Clause 50 sets out the special procedure to be followed at elections in constituencies where seats are reserved for scheduled castes or scheduled

tribes. Clause 51 provides that a member of the scheduled castes or of the scheduled tribes shall not be disqualified to hold a seat not reserved for those castes or tribes if he is otherwise qualified to hold such seat. Accordingly, the procedure to be followed in declaring the results of elections in constituencies where certain seats are reserved for those castes or tribes has been explained in detail in clause 50 having regard to the provisions of clause 51.

Clause 53 provides for the adjournment of poll at an election in case of riot or open violence or on account of any natural calamity or failure of arrangements for holding the poll or other sufficient cause and clause 54 authorises the holding of a fresh poll at an election in the case where ballot boxes are tampered with, destroyed or lost and it has been provided in those clauses that the Returning Officer shall count the votes cast at any such election until such adjourned or fresh poll shall have been completed.

Clause 56 authorises the making of a provision by rule for enabling any such person as is referred to in sub-section (3) or sub-section (4) of section 20 of the Representation of the People Act, 1950, and the wife of any such person to whom the provisions of sub-section (6) of the said section apply and also any person attending on official duty at a polling station to give his vote by postal ballot. This special procedure is necessary to enable the classes of persons described above who will not be able to attend the polling station to record their votes without going there.

Clause 57 authorises the making of a provision by rule for enabling the thumb or any other finger of every intending voter to be marked with indelible ink before delivery of ballot paper to him for voting and for prohibiting the delivery of any ballot paper to any person who has already such mark on his thumb or other finger so as to prevent personation of voters.

Clause 58 prescribes certain limitations on the right of a person to vote. Sub-clause (5) of this clause prohibits the voting by any person who is confined in a prison or is in the lawful custody of the police or is subjected to preventive detention. It will obviously be unsafe to allow this class of persons liberty to go to polling stations for the purpose of voting; and the provision of special guards, etc., for that purpose will also be entirely impracticable.

Clause 59 prescribes the method of voting to be followed in certain plural member constituencies and is based on a previous decision taken by the Constituent Assembly that in plural member constituencies the voting shall be distributive. It is accordingly provided in this clause that, in plural member constituencies other than Council constituencies, every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate. It has been further provided in this clause that if a person gives more than one vote to any candidate in contravention of the said provision all the votes given to such candidate shall be void.

Clauses 64 and 65.—Clause (1) of article 101 of the Constitution prohibits membership of both Houses of Parliament and empowers Parliament to make provision by law for the vacation by a person who is chosen a member of both Houses of his seat in one House or the other. Clauses 64 and 65 provide for the vacation of one of the seats when a person is elected to both Houses of Parliament or when a person who is already a member of one House is elected to the other House of Parliament.

Clause 66 provides for the vacation of all but one of the seats, when a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.

Clauses 71 to 73.—These provisions are based on the provisions as to election expenses contained in the Government of India (Provincial Elections) (Corrupt

Practices and Elections Petitions) Order, 1936. The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with election have been left to be prescribed by rules.

Clause 76 provides for the presentation of an election petition to the Election Commission, and not to the President or the Governor or Rajpramukh of a State as has been the practice hitherto. Under the Government of India Act, 1935, the Governor-General or the Governor was authorised to appoint an Election Commission to determine any election dispute but article 324 of the Constitution authorised the Election Commission constituted under that article to appoint Election Tribunals for the decision of doubts and disputes arising out of or in connection with an election. It has therefore been considered necessary to provide for the presentation of an election petition to the Election Commission.

Clause 81 provides for the appointment of Election Tribunals. A departure from the existing practice has been made in this clause. Hitherto, every Election Tribunal appointed to inquire into an election petition consisted of three members. It is proposed in this clause that the Election Tribunal to be appointed by the Election Commission shall consist of two members, of whom one, the Chairman, shall be a District Judge to be selected by the Election Commission from list of judicial officers of not less than 10 years' standing to be maintained by the Commission in consultation with the High Courts of various States, and the other member shall be either a judicial officer selected by the Election Commission from these lists or an advocate with not less than 10 years' practice selected by it from similar lists maintained for the purposes in consultation with the High Courts. Provision has been made in clause 99 that in case of difference of opinion among the members of the Tribunal, there would be a reference to the High Court.

Clauses 85 to 92 lay down the procedure to be followed at the trial of an election petition. These provisions are based generally on the existing provisions on the subject contained in the various electoral rules and the Indian Elections Offences and Inquiries Act, 1920 (XXXIX of 1920).

Clauses 93 and 94 provide for the final order by the Tribunal at the conclusion of the trial of an election petition. Under the existing procedure at the conclusion of the inquiry into an election petition the Commissioners are required to report to the President or to the Governor about their finding and thereupon the President or the Governor is required to issue orders in accordance with the report and to publish the report in the Gazette. This seems to be hardly necessary. It has therefore been provided that at the conclusion of the trial of an election petition the Tribunal shall make the necessary order either dismissing the petition or declaring the election of the returned candidate to be void or declaring the petitioner or any other candidate to have been duly elected or declaring the election to be wholly void and, where any charge of any corrupt or illegal practice has been made, record the necessary finding with regard thereto and also make order as to costs.

Clause 95 lays down the grounds on which an election may be declared to be wholly void, and also the grounds on which the election of a returned candidate may be declared void, and is based on the corresponding provisions contained in the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936. A distinction has however been made between the cases in which the election will be declared to be wholly void and in which the election of a returned candidate will be declared void. Item (b) of sub-clause (1) of this clause is new. It may be also noticed that the improper acceptance or rejection of any nomination has been mentioned as a ground for declaring the election to be wholly void only in the case of first elections, and not in the case of any other elections, in view of the provisions contained in clause 35 as to appeals from the

decisions of Returning Officers accepting or rejecting any nomination paper in the case of all elections other than the first elections. It may be further noticed that this clause contains references both to corrupt practices and illegal practices. A distinction has been made in the Bill between corrupt practices and illegal practices. In the U. K., Canada, Australia and the Irish Free State, this distinction is maintained in all electoral laws. A corrupt practice differs materially from an illegal practice. In the former a corrupt intent is essential whereas in the latter what has to be ascertained is whether the act done is forbidden by law. In India, hitherto, there has been no distinction between corrupt practices and illegal practices in our electoral laws. In fact what are termed as illegal practices under the Commonwealth laws have also been included in the list of corrupt practices annexed to our existing electoral laws. Thus the corrupt practices specified in Part III of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, are really illegal practices under the U.K. law, for the acts specified therein are forbidden, whether or not they are done with a corrupt intent.

Clause 96 lays down the grounds on which a candidate other than the Returned candidate may be declared to have been elected.

Clause 97 is new. It is based on section 122 (6) of the U.K. Representation of the People Act, 1949. This provision will enable the Election Tribunal, in the case where on a scrutiny or recount of the votes at the trial of an election petition an equality of votes is found to exist between any candidates, to determine by lot which of the candidates will be declared elected.

Clause 99 provides for a reference to the High Court in case of difference of opinion among the members of a Tribunal. Such a reference will be made at the conclusion of the trial of an election petition and on receipt of the opinion of the High Court the Tribunal will pass orders in accordance with such opinion.

Clauses 103 to 111 provide for the withdrawal and abatement of, and substitution of parties to, an election petition and follow closely the existing rules on the subject with the modification that the powers which are exercisable under those rules by the President or Governor or Rajpramukh would be exercised under these clauses by the Election Commission.

Clauses 112 to 117 make provisions for costs which may be awarded by the Tribunal on the trial of an election petition and also for the taking of security for such costs and the recovery of such costs.

Clause 116 provides for the payment of costs out of security deposits and for the return of the balance of security deposits after payment of costs, if any. When costs have been awarded, a period of six months has been prescribed under this clause for the making of an application for the recovery of such costs out of the security deposits and, if no application is made within that period, the security deposit would be liable to be returned to the petitioner after the expiry of that period.

Clause 117 which lays down the procedure as to the execution of orders as to costs is based on section 12 of the Indian Election Offences and Inquiries Act, 1920. It has however been provided in this clause that no application for execution of any order for costs shall lie within a period of six months from the date of publication of such order under clause 101 unless it is for the recovery of the balance of any such costs which could not be realised out of the security deposits owing to the insufficiency of the amount of such deposits to meet the total costs.

Clause 118 reproduces the corrupt practices set out in Part I of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices

and Election Petitions) Order, 1936, with the addition of two items, namely, the items specified in sub-clauses (6) and (8) of that clause. The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any voter to or from any place for the purpose of recording his vote has been made a corrupt practice under Sub-clause (6). Such a practice is an illegal practice under the U. K. Representation of the People Act, 1949. It has, however, been made clear by the addition of a proviso to that sub-clause that the hiring of a vehicle or vessel by a voter or by several voters at their joint cost for the purpose of conveying him or them to or from the polling station will not be deemed to be a corrupt practice under that sub-clause. A definition of "vehicle" has been also added to that sub-clause for the sake of clarity. The obtaining or procuring, or abetting, or attempting to obtain or procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State other than the giving of vote by such person has been also made a corrupt practice under sub-clause (8) of this clause.

Clause 119 reproduces the corrupt practices set out in Part II of the First Schedule to the aforesaid order with the addition of one item, namely, the item specified in sub-clause (5) of that clause. The use of an appeal to religious and national symbols, such as, the national flag and the national emblem, for the furtherance of the election of a candidate has been made a corrupt practice under said sub-clause for the sake of ensuring fair elections.

Clause 120 contains a list of illegal practices. The items mentioned in this clause are the same as those mentioned in Part III of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936.

Clauses 121 to 133 deal with certain offences with respect to elections. It may be pointed out that Chapter IX-A of the Indian Penal Code already contains provisions for punishment for the corrupt practices of bribery, undue influence and personation at elections. "Bribery", "undue influence" and "personation" as defined in the said Chapter do not differ materially from the descriptions of such practices contained in clause 118 of the Bill which have been reproduced from Part I of the First Schedule to the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936, and from the electoral rules which have been in force since 1921. The said Chapter IX-A also contains provisions for punishment for false statements and for illegal payments in connection with an election and for failure to keep election accounts. It has, therefore, been considered unnecessary to include in this Bill any provision for punishment for the corrupt practices and other electoral offences already dealt with in the Indian Penal Code. Further, it would not be possible to omit those provisions from the Indian Penal Code and include them in this Bill, as they apply not only in relation to an election to Parliament, or to the Legislature of a State, but also to every other kind of election, such as, election to Municipalities, District Boards and other local authorities. Accordingly, only provisions with regard to certain other electoral offences have been included in these clauses. These provisions are based mostly on similar provisions contained in the U. K. Representation of the People Act, 1949. The provision contained in the Indian Elections Offences and Inquiries Act, 1920, with regard to maintenance of secrecy of voting at elections has been also included.

Clause 133 seeks to make certain amendments in the Code of Criminal Procedure, 1898, with a view to make the offence of "personation" at elections a cognizable offence. The offence of personation at an election mentioned in section

171-F of the Indian Penal Code is not cognizable offence under the Code of Criminal Procedure, 1898, and under section 195 of that Code no court shall take cognizance of any such offence unless some complaint is made by order of, or under authority from, the State Government or some officers empowered by the State Government in this behalf. It appears that the States of Punjab and Madhya Pradesh have already amended the Code of Criminal Procedure, 1898, in its application to those States so as to make the offence of personation at elections mentioned in the said section 171-F a cognizable offence. Similar amendments have been suggested by this clause in the said Code so that the offence of personation at elections may be made a cognizable offence in all the States.

Clauses 134 to 139 which deal with disqualifications for membership and voting are based on the corresponding provisions contained in Part IV of, and the Second Schedule to, the Government of India (Provincial Elections) (Corrupt Practices and Election Petitions) Order, 1936. It may be noticed that a distinction has been made between corrupt practices and illegal practices for the purpose of the disqualifications prescribed in these clauses. Illegal practices referred to in these clauses are really the same as the corrupt practices which were specified in Part III of the First Schedule to the said Order.

Clause 141 reproduces the provisions as to disqualifications contained in section 13 of the Indian Elections Offences and Inquiries Act, 1920.

Clauses 142 to 145 : It may be noticed from these clauses that as in the case of a general or biennial election, so on the occurrence of a casual vacancy the President in the case where such vacancy occurs in the Council of States or the House of the People, and the Governor or the Rajpramukh in the case where such vacancy occurs in a State Legislative Assembly or a State Legislative Council, will call upon the constituency concerned or the members of the Legislative Assembly of the State concerned, as the case may be, to elect a person for the purpose of filling the vacancy so caused within such time as may be appointed in this behalf by the Election Commission. It has also been provided that where the vacancy is in a reserved seat, it shall be filled by a person belonging to the scheduled castes or the scheduled tribes according as the seat is reserved for such castes or for such tribes.

Clause 146 provides for the maintenance of a list of members of each State Assembly. This list will serve the purpose of electoral rolls in the case of elections by the members of the Legislative Assembly of the State to fill seats in the Council of States and in the Legislative Council of that State.

Clause 147 provides power for extending the time appointed by the Election Commission for completing any general or biennial election or any bye-election. It also provides for the making of necessary amendments in the notification issued by the President or the Governor or the Rajpramukh in respect of an election in consequence of extension of the time originally appointed for the completion of such election.

Clauses 148 to 151 provide for the term of office of members of the Council of States and the State Legislative Councils and the commencement of such term. These provisions are necessary in view of the periodical retirement of the members of the Council of States and of the State Legislative Councils provided for in articles 83 (1) and 172 (2). In the proposed Bill to amend the Representation of the People Act, 1950, the intention is to provide that the seat allotted to the States of Manipur and Tripura in the Council of States shall be filled every two years by the nomination of a representative from the State of Manipur and from the State of Tripura by rotation, and that the seat allotted to the States of Ajmer and Coorg in that Council shall be filled by rotation by holding election every two years in the State of Ajmer and in the State of Coorg, and it has

accordingly been suggested in clause 148 that the term of office of each member so nominated or elected shall be two years.

Clauses 153 to 160 provide for the power to requisition any premises for the purpose of being used as a polling station or for the storage of ballot boxes and also the power to requisition any vehicle, vessel or animal for the transport of ballot boxes to or from any polling station or for the transport of the members of the police force for maintaining order during the conduct of an election or transport of any officer or other person for the performance of any duty in connection with an election. The procedure for requisitioning prescribed in these clauses is based on similar provisions contained in the Defence of India Rules.

Clause 162 bars the interference of civil courts with regard to any action taken or decision given by the Returning Officer or any other person appointed in connection with an election.

Clause 163 seeks to repeal the Indian Elections Offences and Inquiries Act, 1920. All the provisions of this Act are being re-enacted in this Bill and so it is unnecessary to retain that Act. A proviso has, however, been added to this clause so as to continue the application of this Act in relation to any election to fill any casual vacancy referred to in clause (1) or clause (2) of article 388 of the Constitution or any inquiry in respect of such election by an Election Tribunal appointed in that behalf by the Election Commission.

PART IV 173

Section—1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE
CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 638—Legis. 4-51-30, dated Bangalore, 27th June 1951.

Ordered that the accompanying Constitution (First Amendment) Act, 1951, published in the *Gazette of India*, Part II, Section 1, dated the 18th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

MINISTRY OF LAW.

New Delhi, the 18th June 1951.

The following Act of Parliament received the assent of the President on the 18th June, 1951 and is hereby published for general information:—

THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951.

An Act to amend the Constitution of India.

[18th June, 1951]

BE it enacted by Parliament as follows:—

1. **Short Title.**—This Act may be called the Constitution (First Amendment) Act, 1951.

2. **Amendment of article 15.**—To article 15 of the Constitution, the following clause shall be added:—

“(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

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3. Amendment of article 19 and validation of certain laws.—(1) In article 19 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, and the said clause shall be deemed always to have been enacted in the following form, namely:—

“(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.”;

(b) in clause (6), for the words beginning with the words “nothing in the said sub-clause” and ending with the words “occupation, trade or business”, the following shall be substituted, namely:—

“nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

- (i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.”

(2) No law in force in the territory of India immediately before the commencement of the Constitution which is consistent with the provisions of article 19 of the Constitution as amended by sub-section (1) of this Section shall be deemed to be void, or ever to have become void, on the ground only that, being a law which takes away or abridges the right conferred by sub-clause (a) of clause (1) of the said article, its operation was not saved by clause (2) of that article as originally enacted.

Explanation.—In this sub-section the expression “law in force” has the same meaning as in clause (1) of article 13 of the Constitution.

4. Insertion of new article 31A.—After article 31 of the Constitution, the following article shall be inserted, and shall be deemed always to have been inserted, namely:—

“31A. *Saving of laws providing for acquisition of estates, etc.*—(1) Notwithstanding anything in the foregoing provisions of this Part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President has received his assent.

(2) In this article,—

- (a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any jagir, inam or muafi or other similar grant;

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"rights", in relation to an estate, shall include any rights in a proprietor, sub-proprietor, under proprietor, tenure-
other intermediary and any rights or privileges in respect of
and revenue."

5. Insertion of new article 31B.—After article 31A of the Constitution as inserted by section 4, the following article shall be inserted, namely:—

"31B, *Validation of certain Acts and Regulations.*—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force."

6. Amendment of article 85.—For article 85 of the Constitution, the following article shall be substituted, namely:—

"85 *Sessions of Parliament, prorogation and dissolution.*—(1) The President shall from time to time summon each House of Parliament to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People."

7. Amendment of article 87.—In article 87 of the Constitution,—

(1) in clause (1), for the words "every session" the words "the first session after each general election to the House of the People and at the commencement of the first session of each year" shall be substituted;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

8. Amendment of article 174.—For article 174 of the Constitution, the following article shall be substituted, namely:—

"174 *Sessions of the State Legislature, prorogation and dissolution.*—(1) The Governor shall from time to time summon the House or each House of the Legislature of State to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Governor may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the Legislative Assembly."

9. Amendment of article 176.—In article 176 of the Constitution,—

(1) in clause (1), for the words "every session" the words "the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year" shall be substituted;

(2) in clause (2), the words "and for the precedence of such discussion over other business of the House" shall be omitted.

10. **Amendment of article 341.**—In clause (1) of article 341 of the Constitution, for the words “may, after consultation with the Governor of a State,” the words “may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof,” shall be substituted.

11. **Amendment of article 342.**—In clause 1 of article 342 of the Constitution, for the words “may, after consultation with the Governor or Rajpramukh of a State,” the words “may with respect to any State, and where it is a State specified in Part A or Part B of the First Schedule, after consultation with the Governor or Rajpramukh thereof,” shall be substituted.

12. **Amendment of article 372.**—In sub-clause (a) of clause (3) of article 372 of the Constitution, for the words “two years” the words “three years” shall be substituted.

13. **Amendment of article 376.**—At the end of clause (1) of article 376 of the Constitution, the following shall be added, namely :—

“Any such Judge shall, notwithstanding that he is not a citizen of India, be eligible for appointment as Chief Justice of such High Court, or as Chief Justice or other Judge of any other High Court.”

14. **Addition of Ninth Schedule.**—After the Eighth Schedule to the Constitution, the following Schedule shall be added, namely :—

“NINTH SCHEDULE

[Article 31B]

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F. (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F. (No. XXV of 1359, Fasli)."

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

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NOTIFICATION.

No. L.D. 756—Legis. 4-51-35, dated Bangalore, 13th July 1951.

Ordered that the accompanying Rajghat Samadhi Act, 1 (Central Act No. XLI of 1951), published in the *Gazette of India* Part II, Section I, dated the 30th June 1951, be republished in *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government
Law Department*

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

Received Assent on the 29th June 1951.

THE RAJGHAT SAMADHI ACT, 1951 (XLI of 1951)

AN
ACT

to provide for the administration and control of the Rajghat Samadhi in Delhi

BE it enacted by Parliament as follows:—

1. Short title and commencement.—(1) This Act may be called the Rajghat Samadhi Act, 1951.

(2) It shall come into force on such date as the Central Government may by notification in the Official Gazette, appoint.

2. Definitions.—In this Act,—

(a) “Committee” means the Rajghat Samadhi Committee constituted under this Act;

(b) “Samadhi” means the structure built in token of reverence to Mahatma Gandhi at Rajghat on the Western bank of the Jamuna in Delhi and includes the premises described in the Schedule with all buildings contained therein, together with all additions thereto or alterations thereto which may be made after the commencement of this Act.

3. The Rajghat Samadhi Committee.—(1) The administration and control of the Samadhi shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of “The Rajghat Samadhi Committee” be a body corporate and shall have perpetual succession and a common seal. It shall by the said name sue and be sued through its Chairman.

4. Composition of the Committee.—(1) The Committee shall consist of the following members, namely :—

- (a) the president of the municipal committee within the local limits of whose jurisdiction the Samadhi is situated, *ex-officio* ;
- (b) three officials nominated by the Central Government ;
- (c) three non-officials nominated by the Central Government ;
- (d) two members of Parliament nominated by the Speaker.

(2) The Central Government may appoint any person referred to in sub-section (1) or any other person to be the Chairman of the Committee, and if any other person is so appointed, he shall be deemed to be a member of the Committee within the meaning of sub-section (1).

(3) All persons nominated by the Central Government to be members of the Committee shall hold office during the pleasure of the Central Government.

5. Powers and duties of the Committee.—Subject to such rules as may be made under this Act, the powers and duties of the Committee shall be—

- (a) to administer the affairs of the Samadhi and to keep the Samadhi in proper order and in a state of good repair ;
- (b) to organise and regulate periodical functions at the Samadhi ;
- (c) to do such other things as may be incidental or conducive to the efficient administration of the affairs of the Samadhi.

6. Power of Central Government to make rules.—The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act, and to regulate access to the Samadhi or to any portion thereof.

7. Power of Committee to make bye-laws.—(1) The Committee may make bye-laws consistant with this Act and the rules made thereunder for all or any of the following purposes, namely :—

- (a) the manner in which meetings of the Committee shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings ;
- (b) the appointment of such persons as may be necessary to assist the Committee in the efficient performance of its duties and the terms and conditions of service of such employees ;
- (c) the duties and powers of the employees of the Committee ;
- (d) the submission of accounts, returns and reports to the Committee by any of its employees.

(2) All bye-laws made under this section shall be subject to the condition of previous publication and shall not have effect until they are approved by the Central Government.

8. Validity of acts of Committee not to be questioned by reason of vacancy, etc.—

No act or proceeding of the Committee shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of, the Committee.

THE SCHEDULE. 179

[See section 2(b)].

he Samadhi premises, admeasuring 44.35 acres, bounded—

on the north by a vacant piece of land belonging to the Delhi Improvement Trust;

on the south by Power House Road;

on the east by the Power House; and

on the west by Bela Road.

K. V. K. SUNDARAM,

Secretary to the Government of India

PART IV 180

Section I-C

RULES, ORDERS AND NOTIFICATIONS, UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION:

No. L.D. 88—Legis. 6-50-92, dated Bangalore, 16th April 1951.

Ordered that the accompanying Notification No. D. 2223—B II/51, dated 31st March 1951 of the Ministry of Finance under the Public Debt Act, 1944, published in the *Gazette of India*, Part I Section 1, dated the 31st March 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department*

New Delhi, the 31st March 1951.

No. D. 2223-BII/51.—In pursuance of sub-section (1) of section 5 of the Public Debt Act, 1944 (XVIII of 1944) and in supersession of the Notification of the Government of India in the Finance Department, No. D./7552-F, dated the 13th December, 1939, in so far as it relates to Government Securities as defined in the said Act and issued by the Central Government, the Central Government is pleased to declare that the said sub-section shall apply to the following public offices namely :—

A.—Public Offices of the Central and State Governments in India.

Accountants-General
 Accountant-General, Jammu and Kashmir
 Accountant-General, High Court, Bombay
 Accounts Officers of Railways under Construction
 Additional Chief Engineer, Madras Public Works Department
 Additional Deputy Commissioners, Bihar
 Additional Deputy Commissioners, (Damoh), Madhya Pradesh
 Additional District Magistrates, Bihar
 Administrative Officer (Accounts), Eastern Punjab Railway
 Administrative Officer, Cochin Harbour
 Air Officer Commanding, Head Quarters Training Command, I.A.F., Bangalore
 Air Officer Commanding, Head Quarters Operational Command, I.A.F., Palam

Air Officer-in-charge, Personnel and Organisations, Air
Air Officer-in-charge, Technical and Equipment Services
Delhi.

Agricultural Marketing Adviser to the Government of Ir
Architect to Government, Bombay

Assistant Director of Hygiene

Assistant Directors of Medical Services

Assistant Directors of Supplies and Transport

Assistant Directors, Ordnance Factories

Assistant Director Remount, Veterinary and Farms

Assistant Inspectors of General Stores

Assistant Inspectors-General of Police

Assistant Salt Controllers of India

Backward Class Officer, Poona

Brigadiers, A.O.C. at Head Quarters Commands

Brigadier A.S.C. Commands

Brigadiers E.M.E. at Head Quarters Commands

Captain Superintendent, I.N. Dockyard, Bombay

Chairman, Central Tractor Organisation, New Delhi

Charity Commissioner, Bombay

Chief Accountant, Andhra Power System, Madras

Chief Accountant, Vizagapatam Port, Vizagapatam

Chief Accounts Officers, Collectorate of Central Excise

Chief Accounts Officer of Customs, Bombay

Chief Accounts Officer of Excise, Bombay

Chief Accounts Officer of Indian Railways

Chief Commissioners

Chief Conservator of Forests, Bombay

Chief Conservator of Forests, Uttar Pradesh

Chief Controller of Telegraphs Stores

Chief Election Commissioner, New Delhi

Chief Electrical Inspector to the Government of Madras

Chief Electrical Engineer, Hyderabad State

Chief Engineers, Bihar

Chief Engineers, Bombay

Chief Engineers, Central P.W.D.

Chief Engineer for Electricity, Madras

Chief Engineers, Hyderabad State

Chief Engineer, Madras Highways Department

Chief Engineers, Madras P.W.D.

Chief Engineers, Orissa

Chief Engineer, Public Works Department, Uttar Pradesh

Chief Engineers, Punjab

Chief Engineer, Saurashtra Government

Chief Engineers, Southern, Eastern and Western Commands

Chief Inspector of Certified Schools, Poona

Chief Inspector of Military Explosives

Chief Ordnance Officers

Chief Ordnance Officers, Depots

Chief Research Officer-in-charge, Central Marine Fisheries Research Station
Mandapam.

Chief Research Officer-in-charge, Fisheries Research Station, Barrackpore, Calcutta

Chief Research Officer-in-charge, Marine Fisheries Research Station, Madras

Chief Superintendent of Development, Technical Development, Establishment

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Civil Surgeon, Madhya Pradesh
 Clerk of the State High Court, Bombay
 Collectors of Central Excise
 Collector of Commercial Taxes, Orissa
 Collectors of Customs
 Commandant, Armed Forces Medical College, Poona
 Commandants, Armed Police Battalions, West Bengal
 Commandant, Army Ordnance Corps Centre
 Commandant, Army Ordnance Corps School
 Commandant, Border Scouts
 Commandant, Eastern Frontier Rifles, West Bengal
 Commandant, E. M. E. Centre
 Commandant, E. M. E. School
 Commandants, Ordnance Ammunition Depots
 Commanders, A. S. C. Areas/Divisions
 Commander, Artillery of a Division
 Commander Corps, Artillery of a Corps
 Commander of a Division/Area
 Commander of an Army Group, Indian Artillery
 Commander of a Brigade/Brigade Area/Sub Area/Independent Sub Area/Base
 Commander of a Corps
 Commander of a District
 Commander of an Independent Brigade Group
 Commander of a L of C Area/Theatre
 Commanders, Works Engineers, Military Engineer Services
 Commissioner for Workmen's Compensation
 Commissioner of a Division
 Commissioner of Excise, Madhya Pradesh
 Commissioner of Excise, West Bengal
 Commissioner of High Court, Bombay
 Commissioner of Labour, Hyderabad
 Commissioner of Police, Bombay
 Commissioner of Police, Calcutta
 Commissioner of Police, Hyderabad
 Commodore-in-charge, Bombay
 Commodore-in-charge, Cochin
 Comptroller and Auditor-General
 Comptroller, Assam
 Comptroller, Patiala and East Punjab States Union
 Comptroller, Saurashtra
 Comptroller, Vindhya Pradesh
 Conservator-General of Forests, West Bengal
 Conservator of Forests, Bihar
 Conservator of Forests, Bombay
 Conservators of Forests, Madhya Pradesh
 Conservators of Forests, Madras
 Conservators of Forests, Punjab
 Conservators of Forests, Saurashtra
 Controller, Coal Accounts
 Controller of Accounts, Air Forces, Dehra Dun
 Controller of Army Factory Accounts, Calcutta
 Controllers of Military Accounts
 Controller of Naval Accounts, Bombay
 Controller of Printing and Stationery, Punjab

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Controller of Salt Revenue, Madras
 Controllers of Telegraphs Stores
 Court of Wards in Uttar Pradesh
 Court Receiver, High Court, Bombay
 Custodian of Evacuee Property, Bombay
 Dean, Sir, J. J. School of Arts, Bombay
 Deputy Accountant-General, Baroda
 Deputy Accountant-General, Bhopal
 Deputy Accountant-General, Food and Rehabilitation
 Deputy Accountant-General, Industry and Supply
 Deputy Accountant-General, Jodhpur
 Deputy Assistant Directors General (Medical Stores)
 Deputy Assistant Directors of Supplies and Transport, Independent Brigade Areas/
 Sub Areas.
 Deputy Chief Accounts Officer, Assam Railway Link Project
 Deputy Chief Accounts Officer, Assam Railway
 Deputy Commissioners, Bihar
 Deputy Commissioners, Madhya Pradesh
 Deputy Commissioner, Punjab
 Deputy Commissioner, Orissa
 Deputy Commissioners, Criminal Tribes, Punjab
 Deputy Conservators of Forests, Punjab
 Deputy Custodian of Evacuee Property, Bombay
 Deputy Director-General of Food, Ministry of Food and Agriculture
 Deputy Director, Ordnance Factories
 Deputy Directors of Medical Services (Commands)
 Deputy Director of Remount, Veterinary and Farms
 Deputy Directors and Deputy Assistant Directors of Supplies and Transport
 Deputy Directors of Education, Bihar
 Deputy Inspectors of Schools
 Deputy Inspectress of Schools, Orissa
 Deputy Inspectors-General of Police
 Deputy Salt Controllers of India
 Deputy Sea Transport Officer, Bombay
 Development Commissioner, Kandla (Kutch)
 Director, All-India Institute of Hygiene and Public Health, Calcutta
 Director, B. C. G. Laboratory, Guindy, Madras
 Director, Central Drugs Laboratory, Calcutta
 Director, Central Potato Research Institute, Patna
 Director, Central Research Institute, Kasauli
 Director, Cinchona Department, Madras
 Director, Department of Anthropology
 Director, Development Department Chawls, Bombay
 Director, Forests, Hyderabad
 Director-General, Armed Forces, Medical Services
 Director-General, All-India Radio
 Director-General of Archaeology in India
 Director-General of Food, Ministry of Food and Agriculture
 Director-General of Health Services
 Director-General, Ordnance Factories
 Director-General of Posts and Telegraphs
 Director, Indian Dairy Research Institute
 Director, Indian Agriculture Research Institute
 Director, Indian Veterinary Research Institute

Director, Indian Institute of Technology, Kharagpur
 Director, Malaria Institute of India, Delhi
 Director of Agriculture, Uttar Pradesh
 Director of Agriculture, Madhya Pradesh
 Director of Agriculture, Bombay State, Poona
 Director of Agriculture, Madras
 Director of Agriculture, Hyderabad
 Director of Animal Husbandry and Veterinary Science, Bombay State, Poona
 Director of Audit, Defence Services
 Director of Civil Supplies (Accounts), Civil Supplies Department, Bombay
 Director of Archives, Government of India
 Director of Artillery
 Director of Commerce and Industries, Hyderabad
 Director of Education, Ajmer
 Director of Education, Saurashtra Government
 Director of Excise and Prohibition, Bombay
 Director of Forests, Orissa
 Director of Fisheries, Madras
 Director of Health Services, West Bengal
 Director of Industries and Central Purchasing Officer, Bombay
 Director of Industries and Commerce, Madras
 Director of Industries, Madhya Pradesh
 Director of Industries and Commerce, Uttar Pradesh
 Director of Mechanical Engineering
 Director of Medical College, Nova Goa
 Director of Medical Services (Army)
 Director of Ordnance Services
 Director of Parks and Gardens, Bombay
 Director of Public Health, Uttar Pradesh
 Directors of Public Instruction
 Director of Railway Audit
 Director of Signals, Army Head Quarters
 Director of Stores, Naval Head Quarters
 Director of Supplies and Transport
 Director of Technical Development
 Director of Telegraph Stores and Workshops
 Director, Railway Clearing Accounts Office, Delhi
 Director, Rice Research Institute, Cuttack
 Director, Zoological Survey of India, Calcutta
 District Agricultural Officers, Madras
 District Education Officers, Madras State
 District Inspectors of Schools, Orissa
 District Inspectors of Schools, Madhya Pradesh
 District Judges
 District Magistrates and Collectors
 District Managers, Telephones
 District Medical Officers, Madras State
 District or Divisional Forest Officers
 District Remount Officer, Army Horse and Mule Breeding Area
 Divisional Engineer, Madras Highways Department
 Divisional Engineers, Telegraphs
 Divisional Superintendent of Education, Madhya Pradesh
 Divisional Superintending Engineer, Local Government, Hyderabad State

Electrical Commissioner with the Government of Bombay
 Electrical Engineers and Electrical Inspectors, Orissa
 Electrical Engineer to the Government of Bombay
 Examiner of Local Fund Accounts, Madras
 Executive Engineers
 Export Trade Controller, Bombay
 Export Trade Controller, Calcutta
 Field Controller of Military Accounts (O. and C. H.) Poona and (Other Ranks)
 Secunderabad (Hyderabad State)
 Financial Advisers and Chief Accounts Officers of Indian Railways
 Financial Adviser to His Exalted Highness the Nizam of Hyderabad
 Food Controller, Bombay
 Forest Utilisation Officer, Madras
 Garrison Engineers
 General Managers, Telephones
 General Superintendent, Public Works, Workshops and Stores, Madras
 Head Masters of Government Schools, Orissa
 Head Masters, Patwardhan High School, Nagpur and Government High School,
 Bhandara.
 Head Mistresses, Government Girls' High Schools, Madhya Pradesh
 Huzur Secretary to H. H. the Maharaja of Mysore
 Hydro-Electric Engineer, Uttar Pradesh
 Inspectors-General of Police
 Inspectors-General of Prisons
 Inspectors-General of Registration
 Inspector of General Stores
 Inspector of Metal and Steel
 Inspectors of Schools
 Inspectresses of Schools
 Joint Director of Technical Education, Bombay
 Judges, Small Causes Courts
 Judicial Officer-in-Charge, Excise, Mhow
 Judicial Officer-in-Charge, Excise, Neemuch
 Junior Controller of Military Accounts, Patna
 Librarian, National Library
 Local Excise Authority, Nowgong
 Manager, Military Dairy Farm
 Master General of the Ordnance
 Masters of Mint
 Master, Security Printing, India
 Military Accountant-General
 Military Secretary to H. E. the Governor, Uttar Pradesh
 Municipal Commissioner for Greater Bombay
 Naval Officer-in-charge of a Port
 Naval Stores Officer, Bombay
 Officer Commanding a Remount Depot
 Officer Commanding a Unit specified in Annexure 'A'
 Officer Commanding, Air Transport Development Centre
 Officers Commanding, Army/Command/Combined/Engineering Equipment/
 Station Workshop E. M. E.
 Officers Commanding, Engineer Stores Depots
 Officer Commanding, Experimental Station
 Officer Commanding, Jaisalmer Risa and Camel Battery
 Officer Commanding Units Specified in Annexure 'C'

Officer-in-charge of any Ordnance or Clothing Factory
 Officer-in-charge of a Unit specified in Annexure 'B'
 Officer-in-charge Army Corps Records
 Officer-in-charge clothing Inspection Depot
 Officer-in-charge Court of Wards, Ajmer Merwara
 Officer-in-charge E. M. E. Records
 Official Assignees
 Official Receiver, Calcutta High Court
 Official Receiver, Madras High Court
 Ordnance Commandant, H. Q. Dehu Ordnance Depots
 Ordnance Officer-in-Charge Depots
 Pay Master Carnatic Stipends, Madras
 Port Health Officer, Bombay
 Port Health Officer, Calcutta
 Port Officers, Madras State
 Post Master-General (including Director of Posts and Telegraphs)
 Presidency Port Officer, Madras
 President, Forest Research Institute and College, Dehra Dun
 President, Income Tax Appellate Tribunal, Bombay
 Presiding Officer of a Court of Civil or Criminal Jurisdiction
 Principal, Central Institute of Education, Delhi
 Principal, College of Nursing, New Delhi
 Principal, Delhi Polytechnic, Delhi
 Principal, Government Engineering School, Nagpur
 Principal, Lawrence School, Lovedale (Nilgiris Hills)
 Principal, Lawrence School, Sanawar (Simla Hills)
 Principals of Government Colleges, Madhya Pradesh
 Principals of Government Colleges, Orissa
 Principals of Government Schools and Colleges, Madras State
 Principal, Police Training School, Nasik
 Principal, Police Training College, West Bengal
 Principal Sea Transport Officer, India
 Protector of Emigrants, Madras
 Prothonotary and Senior Master, High Court, Bombay
 Public Health Engineer to Government of Bombay
 Regional Commissioner
 Registrar, Bombay City Civil Court
 Registrar of Co-operative Credit Societies, Hyderabad
 Registrar of Co-operative Societies, Madhya Pradesh
 Registrar of Co-operative Societies, Madras
 Registrar of Co-operative Societies and Director of Agriculture Marketing and Rural
 Finance, Poona.
 Registrar of Chief Court of Oudh
 Registrars of High Courts
 Registrars of all Presidency Courts of Small Causes
 Registrar of Joint Stock Companies, Bihar
 Registrars of Public and Parsi Public Trusts in the Bombay State
 Registrar, Testamentary and Admiralty Jurisdiction, High Court, Bombay
 Resident Naval Officer at a Port
 Resident Engineers, Electricity Branch, Punjab
 Revenue Commissioner, Orissa
 Revenue Officer, Electricity Branch, Punjab
 Salt Controller of India.
 Sanitary Engineer to the Government of Madras

Sea Transport Officer at a Port
 Secretary, High School Education Board, Madhya Pradesh
 Secretaries to the Boards of Revenue
 Secretaries to the Government of India
 Secretary, Indian Council of Agricultural Research
 Secretary, Cantonment Boards, Punjab
 Secretary, Railway Board
 Secretary to the Government of Part A, B, C or D State
 Secretary to the Commissioner of Excise, Madras
 Secretary to H. E. the Governor of Bihar
 Secretary to H. E. the Governor of Orissa
 Senior Professor of Persian, Ravenshaw College, Orissa
 Senior Subordinate Civil Judges
 Serologist and Chemical Examiner to the Government of India, Calcutta
 Sheriff of Bombay
 Sheriff of Calcutta
 Special Officer, Emergency Irrigation Division, Orissa
 Sub-Divisional Officers, Punjab
 Superintendent, Basic Normal School, Wardha
 Superintendent, Government Printing and Stationery, Bombay
 Superintendent, Government Hospital, Madras State
 Superintendent of any Ordnance or Clothing Factory
 Superintendents of Development, Technical Development Establishments
 Superintendents of Education
 Superintendents of Jails
 Superintendents of Police
 Superintendent, Printing and Stationery, Uttar Pradesh
 Superintendent of Proof and Experiments
 Superintendent of Sanskrit Studies, Orissa
 Superintendent of Stamp and Stationery, Madras
 Superintendent of Telegraph Workshops (including Manager, Bombay Telephone Workshops).
 Superintendent, Robertson Medical School, Nagpur
 Superintendent, Training Centre for the Adult Blind, Dehra Dun
 Superintending Engineers
 Superintending Engineer-in-charge, Deep Sea Fishing Station, Bombay
 Superintending Sea Transport Officer, Calcutta.
 Supply Officer-in-charge, I. N. Pay Office, Bombay
 Surveyor General of India
 Tehsildar, Hatta (Saugar District), Madhya Pradesh
 Treasury Officers
 Vice Chairman, Indian Council of Agricultural Research
 Wasiqua Officer, Lucknow

B.—Public Offices in the Union of Burma

Accountant-General
 Administrator-General and Official Assignee
 Auditor-General
 Chief Engineer, Buildings and Roads Department
 Collector of Customs
 Commissioner of a Division

Commissioner for Workmen's Compensation
 Conservators of Forests
 Controller of Military Accounts
 Controller of Railway Accounts
 Director of Medical and Health Services
 Director of Posts
 Director of Public Instruction
 Director of Tele Commissions
 District and Sessions Judges
 District Magistrates and Collectors
 Executive Engineers
 General Officer Commanding Army
 Inspector-General of Police
 Residents, Shan States
 Secretaries to Government of Union of Burma
 Secretaries to State Governments
 Secretary, Railway Board
 Treasury Officers

C.—Public Offices in Pakistan.

Accountants-General
 Accountant-General, Bahawalpur State
 Auditor-General
 Chief Commissioner, Baluchistan
 Collectors of Central Excise
 Collectors of Customs
 Commandants, Royal Pakistan Army Service Corps and Records
 Commanders-in-Chief, Army, Navy and Air Forces
 Commissioners of Divisions
 Comptroller, N. W. F. P.
 Defence Accounts Officers
 Deputy Commissioners
 Director-General of Railways
 Director-General, Posts and Telegraphs
 District Judges
 District Magistrates and Collectors
 Divisional-Accounts Officers, Railways
 Executive Engineers
 Financial Advisers and Chief Accounts Officers, Railways
 Inspectors-General of Police
 Inspectors of Schools
 Official Assignees
 Official Receivers
 Military Accountant-General
 Post Masters-General
 Protector of Emigrants
 Secretaries to the Government of Pakistan
 Secretaries to Provincial Governments
 Superintendents of Police
 Treasury Officers

D.—Public Offices in Ceylon

Commissioner of the Loan Board
 Deputy Secretary to the Treasury
 Inspector-General of Police
 Post Master-General
 Public Trustee
 Registrar-General
 Treasurer, Ceylon Savings Bank

E.—Public Offices in Federated Malaya States.

Accountant General, Supreme Court, Singapore.

ANNEXURE A.

Indian Artillery—a Regiment, Battery or Centre.

Indian Engineers.—A Company, Squadron, Detached or Independent Platoon, or Troop, Printing Section, Regtl. Centre Headquarters Regiment or Group, a School of Military Engineering and any wing thereof, a Survey School, a Transportation School, a Training Battalion, a Depot Battalion or any officer holding the appointment of officer in charge workshops or Field Works, or Superintendent of Instruction or Group Quartermaster.

Corps of Signals—Signals Training Centre, School of Signals, Army Signal School, Signals, Record and Corps of Signals Units commanded by an officer of the Rank Lt. Col., and independent Corps of Signals Units commanded by an officer of the rank of not less than Major.

Infantry.—A battalion, a Regimental Centre and Record offices.

Army Service Corps.—A supply petroleum Unit, Centre and Records. Animal Transport Regiment, a General Transport Company, a Motor Ambulance platoon, a G. T. independent platoon, Army Service Corps School.

Medical Units—Army Medical Corps Centres, Armed Forces Medical College, Military Hospitals, General Hospitals, Field Ambulances, Light Field Ambulances, Para Field Ambulances, Hospital Ships, Anti-Malaria Training Units, Anti-Malaria Units, Ambulance Trains, Field Hygiene Sections, Light Field Hygiene Sections, Para Field Hygiene Sections, Armed Forces Medical Stores Depots, Field Surgical Units, Mobile Surgical Teams, Advance Base Transfusion Units, Artificial Limb Centres, Spectacle Centre, Casualty Clearing Stations, Staging Sections, Field Laboratories, Army Medical Corps Record Office, Station Hygiene Organisation, Command Military Dental Centres, Military Dental Centres, Armed Forces Medical Inspection Room, Base Depot Medical Stores and Sub-Depot Medical Stores.

Armoured Corps.—A Regiment, Corps Training Centre School, Armed Corps Depot and Armoured Corps Records.

Educational and Training Establishments.—A school of training or instruction.

Ordnance Establishments.—An arsenal, a depot, and ordnance Workshop Company or an independent ordnance Workshop Section, Pioneer Corps Records and Depot.

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ANNEXURE B.

A composite Military Food Laboratory, Command or Area Laboratories.

ANNEXURE C.

Air Force Stations.—No. 1 Wing. I.A.F. Station; No. 2 Wing. I.A.F. Station
3 Wing I.A.F. Station; No. 4 Wing I.A.F. Station; No. 1 Air Force Academy, I.A.F.
Station, No. 2 Air Force Academy. I.A.F. Station; No. 3 Air Force Academy I.A.F.
Station, I.A.F. Station; 5 'X' M.U. I.A.F. Station; No. 6. 'X' M.U. I.A.F. Station;
No. 7. 'X' M.U. I.A.F. Station; No. 8. 'X' M.U. I.A.F. Station; I.A.F. Station;
No. 2. G.T.S. I.A.F.

Equipment Depots.—

No. 1 B. R. D., I. A. F. Station.

No. 2 E. D., I. A. F. Station.

No. 3 E. D., I. A. F. Station.

No. 4 E. D., I. A. F. Station.

No. D. 2929-BI/51.—In exercise of the powers conferred by rule 4 of the
Public Debt Rules, 1946, the Central Government hereby prescribes the following as
a form of Government security for the purposes of sub-clause (iv) of clause (a) of
sub-section (2) of section 2 of the Public Debt Act, 1944 (XVIII of 1944).—

FORM.

GOVERNMENT OF INDIA.

Treasury Savings Deposit Certificate.

Dated.....

NOT TRANSFERABLE.

No.....

Rs.....

This certificate entitles.....to receive payment on
.....at any Government treasury of

RUPEES.....

deposited under the.....Treasury Savings Deposits Scheme and to
receive interest on such sum at the rate of.....per cent per annum
payable.....on.....subject to terms and conditions
stated in Government of India, Ministry of Finance Notification No.....
dated the.....

No.....

Dated.....

By order of the President of India,
Governor, Reserve Bank of India,

Manager,

Reserve Bank of India,
Public Debt Office,

.....
H. S. NEGI, Dy. Secy.

PART IV

Section 2-C

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.**

NOTIFICATIONS.

No. M. 5192—G.M. 12-51-4, dated Bangalore, the 14th July 1951.

In exercise of the powers conferred by Section 7 of the Indian Christian Marriage Act, 1872 (Central Act XV of 1872), and in supersession of Notification No. M. 15089—G.M. 36-49-4, dated 16th March 1950, His Highness the Maharaja of Mysore is pleased to appoint Sri Kora Chandy, B.A., 23, Richards Town, Civil Station, Bangalore, being a Christian, to be the Marriage Registrar under the said Act, for the Revenue District of Bangalore.

By Order of His Highness the Maharaja,

K. BALASUBRAMANYAM,

*Secretary to Government,
Local Self-Government Department.*

No. L.D. 751—L.A. 24-51-3, dated Bangalore, the 11th July 1951.

In exercise of the powers conferred by Article 186 read with Clause (8) of Article 238 of the Constitution of India, His Highness the Rajpramukh of Mysore is pleased to direct that the high price allowance of thirty seven rupees and eight annas per mensem in addition to the pay of two hundred and fifty rupees per mensem paid to the Deputy Speaker of the Legislative Assembly of Mysore up to the end of October 1950 shall be deemed to be an allowance validly paid to him.

JAYA CHAMARAJA WADIYAR,

Rajpramukh of Mysore.

By Order of His Highness the Maharaja,

No. L.S. 1370—L.W. 93-51-2, dated Bangalore, 9th July 1951.

Whereas it is intended to add, after a period of three months from the date of publication of this Notification in the *Mysore Gazette*, the employment specified hereunder, to the employments specified in Schedule III to the Workmen's Compensation Act, 1923, (Central Act VIII of 1923), and also to specify the diseases which, within the State of Mysore shall be deemed to be occupational diseases peculiar to such employment, for the purposes of Section 3 of the said Act.

Now, therefore notice of such intention is hereby given as required by sub-section (3) of Section 3 of the said Act.

Occupational disease.	Employment
Miners' Phthisis or Silicosis	Any occupation wherein the mineral dust is such as to cause silicosis

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

No. 1631—Cts. 83-50-8, dated Bangalore, 11th July 1951.

Under Section 4 (1) of the Official Trustees Act, 1913 (Central Act II of 1913), read with Part B States (Laws) Act, 1951 (Act III of 1951), Sri T. Kempaiya, B.A., LL.B., Registrar, High Court of Mysore, is appointed Official Trustee for the Mysore, State in addition to his duties as Registrar, High Court of Mysore.

By Order of His Highness the Maharaja,

1634—Cts. 83-50-9, dated Bangalore, 11th July 1951.

Section 5 of the Official Trustees Act, 1913 (Central Act II of 1913), read with Part B States (Laws) Act, 1951 (Act III of 1951), Sri Kora Chandy, B.A., Registrar, High Court of Mysore, is appointed

Deputy Official Trustee for the Mysore State, in addition to his duties as Deputy Registrar, High Court of Mysore.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Secretary to Government,
Law Department.*

No. A.F. 3768—Mart. 13-51-12, dated Bangalore, 7—11th July 1951.

In exercise of the powers conferred by Section 4 of the Mysore Agricultural Produce Markets Act, (No. XVI of 1939), His Highness the Maharaja of Mysore, is pleased to declare that with effect from 9th July 1951, Santhe-marahalli Village proper, Chamarajanagar Taluk shall be a "Market" established under the said Act for the Agricultural produce, namely, "Cocoons" (Sericulture).

By Order of His Highness the Maharaja,

No. A.F. 3769—Mart. 13-15-13, dated Bangalore, 7—11th July 1951.

Under Section 5 of the Mysore Agricultural Produce Markets Act, (No. XVI of 1939), His Highness the Maharaja of Mysore is pleased to declare that the under-mentioned Taluks shall be constituted to be represented on the Market Committee for the Market constituted under Notification No. 3768—Mart. 13-51-12, dated 11th July 1951 :—

1. T.-Narasipur.
2. Yelandur.
3. Chamarajanagar.
4. Nanjangud.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*



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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L.D. 3533—Legis. 3-50-19, dated Bangalore, 26th March 1951.

Ordered that the accompanying Inland Steam-vessels (Amendment) Bill, 1951, (12 of 1951), the Finance Bill, 1951, (13 of 1951) and the Codes of Civil and Criminal Procedure (Amendment) Bill, 1951, (14 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 10th March 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

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PART II—Section 2

Bills and Report of Select Committees' on Bills

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 28th February 1951 :—

BILL No. 12 OF 1951

A Bill further to amend the Inland Steam-vessels Act, 1917.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Inland Steam-vssels (Amendment) Act, 1951.

2. Amendment of section 1, Act I of 1917.—In section 1 of the Inland Steam-vessels Act, 1917 (hereinafter referred to as the principal Act), for sub-sections (2) and (3), the following sub-section shall be substituted, namely :—

“(2) It extends to the whole of India except the State of Jammu and Kashmir :

Provided that it shall not come into force in the States of Travancore-Cochin and Madras or in that part of the State of Orissa which on the 31st day of March, 1936, was included in the State of Madras, unless the State Government concerned, by notification in the Official Gazette, so directs.”

3. Insertion of new Chapter II A in Act I of 1947.—In the principal Act, after Chapter II, the following shall be inserted, namely :—

“ CHAPTER II A.

REGISTRATION OF INLAND STEAM-VESSELS

19A. Inlnad steam-vessels not to proceed on voyage or be used for service without certificate of registration.—(1) An inland steam-vessel shall not proceed on any voyage or be used for any service, unless it has a certificate of registration in force in respect thereof and granted under this Act.

(2) Nothing in this section shall—

(a) apply to any steam-vessel built at any place other than a place of registry and making her first voyage to any such place for the purpose of registration ; or

(b) be in derogation of the provisions contained in section 3.

19B. Place of registry and registering authorities.—(1) The State Government may, by notification in the Official Gazette,—

(a) declare such places within the territories under its administration as it thinks fit to be places of registry, and

(b) appoint registering authorities at the said places for the purposes of this Act.

(2) Every person appointed as a registering authority shall, for the purposes of any registration made by him, be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

19C. *Book of registration.*—At every place of registry, a book shall be kept by the registering authority in which all the particulars contained in the form of the certificate of registration shall be duly entered and such registering authority shall, immediately after registering any inland steam-vessel or, within one month at the furthest, send to the State Government a true and exact copy, together with the number, of every certificate which shall be so granted by it.

19D. *Application for registration.*—An application for registration of an inland steam-vessel shall be made by the owner or master of the vessel in such form and shall contain such particulars as may be prescribed and shall be accompanied by a copy of the certificate of survey in force issued in respect of the vessel.

19E. *Places of registration.*—(1) Every application for registration shall be made to a registering authority within the local limits of whose jurisdiction the owner of the inland steam-vessel ordinarily resides or carries on business.

(2) Where the owner applying for a certificate of registration is a company registered under the Indian Companies Act, 1913, (VII of 1913), the application may be made to a registering authority within the local limits of whose jurisdiction the principal office of the company is situate.

(3) Notwithstanding anything contained in this section, an inland steam-vessel may be registered by a registering authority in any State, although the owner does not ordinarily reside or carry on business in that State or if a company, the principal place of business of the company is not situate in that State;

Provided that the Government of the State in which the owner ordinarily resides or carries on business, or in the case of a company the Government of the State where the principal place of business of the company is situate, has accorded its previous approval thereto.

19F. *Grant of certificate of registration.*—(1) If, in respect of any inland steam-vessel, the registering authority, after making such inquiry as it thinks fit, is satisfied that the provisions of this Act or of any rules made thereunder have been complied with, it shall grant to the applicant therefor a certificate of registration comprising such particulars as may be prescribed.

(2) A registering authority may refuse to register an inland steam-vessel, if she is found to be mechanically defective, or if the applicant fails to furnish satisfactory evidence in support of any of the statements made in his application:

Provided that where the registering authority refuses to register any inland steam-vessel, it shall furnish to the applicant a statement in writing containing the reasons for such refusal.

19G. *Automatic registration of inland steam-vessels registered under the Merchant Shipping Acts.*—Where an application is made under this Act for the registration of an inland steam-vessel registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, the registering authority shall, on receipt of such application and any fee that may be prescribed, and, on being furnished with satisfactory proof of the fact of such registration, grant to the applicant a certificate of registration under this Act.

19H. *Marking of inland steam-vessels.*—Where an inland steam-vessel has been registered under this Chapter, the registering authority shall assign to the vessel, to be displayed thereon conspicuously in the

prescribed manner, a distinguishing mark, hereinafter in this Act referred to as the registration mark.

19 I. *Prohibition against transfer of certificate of registration.*—(1) A certificate of registration granted in respect of any inland steam-vessel shall be used only for the lawful navigation of that vessel.

(2) A certificate of registration in respect of an inland steam-vessel issued by a registering authority in one State shall be valid for that State only, but where any such vessel plies in inland waters of more than one State, nothing in this section shall be deemed to require the owner or master of the vessel to obtain a fresh certificate or registration in relation to the State or States in which the vessel is not so registered:

Provided that the owner of the vessel has not ceased to reside or carry on business in the State in which the vessel was originally registered.

19J. *Registration of alterations.*—(1) When an inland steam-vessel is so altered as not to correspond with the particulars relating to her or the description entered in the certificate of registration, then the owner of the vessel shall, within such period as may be prescribed, make a report of such alteration to the registering authority of the place where the vessel is registered.

(2) The report under sub-section (1) shall be made in such form and shall contain such particulars with respect to the alteration as may be prescribed and shall be accompanied by the certificate of registration in force in respect of the vessel at the time of the report.

(3) The registering authority, on receipt of the report under sub-section (1) and on payment of the prescribed fee, shall either cause the alteration to be registered or direct that the vessel be registered anew:

Provided that where the registering authority directs that the vessel be registered anew, it shall either grant a provisional certificate describing the vessel as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(4) Any provisional certificate granted or endorsement made under the provisions of this section shall be valid for a period of one month from the date thereof, within which period the owner shall cause all necessary steps to be taken to have the vessel registered anew.

19K. *Transfer of registry.*—(1) The registry of an inland steam-vessel may be transferred from one place in a State to another place in another State on the application by the owner or master of the vessel to the registering authority of the place where the vessel is registered.

(2) On receipt of such application, the registering authority shall transmit notice thereof to the registering authority of the intended place of registry with a copy of all particulars relating to the vessel.

(3) The certificate of registration in respect of the vessel shall be delivered up to the registering authority either of the existing or intended place of registry, and, if delivered up to the former, shall be transmitted to the registering authority of the intended place of registry.

(4) On receipt of the documents, referred to in sub-sections (2) and (3) and the prescribed fee, if any, the registering authority of the intended place of registry shall enter in its register book all the particulars so transmitted as aforesaid and grant a fresh certificate of registration in respect of the vessel and thenceforth such vessel shall be considered as registered at the new place of registry.

19L. *Change of residence or place of business.*—(1) If the owner of an inland steam-vessel ceases to reside or carry on business at the address

recorded in the certificate of registration of the vessel, he shall, within thirty days of the change of address, intimate his new address to the registering authority by which the certificate of registration was granted, or, if the new address is within the jurisdiction of another registering authority, to that registering authority, and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered thereon.

(2) Where a registering authority other than the original registering authority makes any such entry, it shall communicate the new address to the original registering authority.

19M. *Prohibition against transfer of ownership of registered vessel.*—

(1) An inland steam-vessel registered under this Act in one State shall not be transferred to a person resident in another State in India or in any country outside India, without the previous approval of the Government of the State in which the vessel is registered :

Provided that where an inland steam-vessel is also registered under the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), as amended by any subsequent enactment, this sub-section shall have effect as if for the words “the Government of the State in which the vessel is registered”, the words “the Central Government” had been substituted.

(2) Subject to the provisions of sub-section (1), the owner of an inland steam-vessel registered under this Act and the transferee thereof shall, within thirty days of the transfer of ownership of the said vessel to the transferee, jointly make a report of the transfer to the registering authority within the local limits of whose jurisdiction the transferee resides or carries on business and shall also forward the certificate of registration to that registering authority, together with the prescribed fee, in order that particulars of the transfer of ownership may be entered thereon.

19N. *Suspension of certificates of registration.*—(1) A registering authority may suspend, for such period and subject to such conditions as it thinks fit, the certificate of registration of an inland steam-vessel, if it has reason to believe that after the granting of the certificate the vessel has become unfit to ply in inland waters.

(2) Where the registration of an inland steam-vessel is suspended under sub-section (1) for a period of not less than one month, the registering authority ordering the suspension shall, if it is not the original registering authority, inform that other authority of the fact of such suspension.

(3) The registering authority suspending the certificate may require the owner or master of the vessel to deliver up the certificate so suspended to itself or, if it is not the original registering authority, to that other authority.

(4) A certificate of registration surrendered under this section shall be returned to the owner when the order suspending the certificate has been rescinded or has ceased to operate.

19 O. *Cancellation of registration.*—(1) If an inland steam-vessel has been destroyed or has been rendered permanently unfit for service, the owner of the vessel shall, with the least practicable delay, report the fact to the registering authority of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon the registering authority shall have the certificate of registration cancelled.

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(2) Any registering authority may at any time require that any inland steam-vessel within the local limits of its jurisdiction may be inspected by such authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, the registering authority is satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the registering authority may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to the registering authority, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

19P. *Appeals*.—(1) Any person aggrieved by an order—

- (a) refusing to register any inland steam-vessel under section 19F ;
- (b) suspending a certificate of registration under section 19N ; or
- (c) cancelling a certificate of registration under sub-section (2) of section 19O,

may, within thirty days of the date on which he receives notice of such order, appeal against it to the State Government.

(2) The State Government shall cause notice of every such appeal to be given to the registering authority concerned in such manner as may be prescribed, and after giving an opportunity to that authority and to the appellant to be heard shall pass such order thereon as it thinks fit.

19Q. *Reciprocity*.—Where the Central Government is satisfied that by the law or practice of any country outside India, inland steam-vessels having a certificate of registration in force under this Act—

- (a) obtain by reason of such registration any special exemption in that country while plying in the inland waters thereof, or
- (b) are required as a condition of plying in the inland waters of that country to comply with any special requirement, whether by way of registration anew or payment of a fee or otherwise,

the Central Government may, by notification in the Official Gazette, for the purpose of reciprocity, direct that the same exemption or requirement, or an exemption or a requirement as similar thereto as may be, be granted to, or imposed upon, inland steam-vessels registered in that country while plying in the inland waters of the territories to which this Act extends.

19R. *Power to make rules*.—(1) The State Government may make rules to carry out the objects of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the power, duties and functions of registering authorities and the local limits of their jurisdiction ;
- (b) prescribe the form of, and the particulars to be contained in, applications for, and certificates of, registration ;
- (c) provide for the form and manner in which books of registration shall be maintained under this Chapter ;
- (d) provide for the issue of duplicate certificates of registration to replace certificates lost, destroyed or mutilated ;
- (e) prescribe, subject to the approval of the Central Government, the fees to be charged for the registration of inland steam-vessels or for any other action to be taken by the registering authority under this Chapter, and provide for the exemption of any person or class of persons from payment of the whole or any part of any such fees ;

(f) prescribe the period within which and the manner in which the owner of an inland steam-vessel shall make a report of any alteration in the vessel under section 19J;

(g) prescribe the manner in which, appeals to the State Government may be preferred under this Chapter and the fees payable in respect of any such appeal;

(h) provide for any other matter which is to be or may be prescribed under this Chapter."

4. Amendment of section 55, Act I of 1917.—In section 55 of the principal Act, after the word and figure "section 3", in both the places where they occur, the words, figures and letter "or section 19A" shall be inserted.

5. Amendment of section 56, Act I of 1917.—In section 56 of the principal Act, after the words and figures "as required by section 10" the words, figures and letter "or if the registration mark is not displayed as required by section 19H" shall be inserted.

6. Substitution of new section for section 57, Act I of 1917.—For section 57 of the principal Act, the following section shall be substituted, namely :—

"57. *Penalty for neglect or refusal to deliver up or surrender certificates of survey or registration.*—If the owner or master of an inland steam-vessel without reasonable cause neglects or refuses—

(a) to deliver up a certificate of survey when required under section 14 so to do;

(b) to deliver up a certificate of registration when required under section 19N so to do; or

(c) to surrender a certificate of registration as required by section 19 O;

he shall be punishable with fine, which may extend to one hundred rupees."

7. Insertion of new section 63A in Act I of 1917.—After section 63 of the principal Act, the following section shall be inserted, namely :—

"63A. *General provision for punishment of offences not otherwise provided for.*—If any person contravenes any of the provisions of this Act for which no other penalty is provided in this Act, he shall be punishable with fine which may extend to two hundred rupees."

8. Amendment of section 68, Act I of 1917.—In section 68 of the principal Act, for the words and figures "Chapters II and III", the words, figures and letter "Chapters II, IIA and III" shall be substituted.

9. Insertion of new section 75 in Act I of 1917.—After section 74 of the principal Act, the following section shall be inserted, namely :—

"75. *Repeal and saving.*—(1) If immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law which corresponds to this Act, such corresponding law shall, on that day stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by such corresponding law shall be deemed to have been done or taken in the exercise of the powers conferred by this Act, and any penalty incurred or proceeding commenced under such corresponding law shall be deemed to be a penalty incurred or proceeding commenced under this Act, as if this Act were in force on the day on which such thing was done, action taken, penalty incurred, or proceeding commenced."

STATEMENT OF OBJECTS AND REASONS.

The Inland Steam-vessels Act, 1917, which regulates the operations of inland steam-vessels does not provide for the registration of such vessels. According to its existing provisions, all that a steam-vessel requires, before it can be employed on a voyage or service, is a certificate of survey in force and applicable to such voyage or service. The Merchant Shipping Act, 1894, contains a provision for the registration of inland steam-vessels exceeding 15 tons burden, but failure to register such vessels is not an offence under that Act. It is now considered necessary to make it obligatory for all inland steam-vessels to be registered under the Inland Steam-vessels Act before they can be permitted to proceed on a voyage or service. The present Bill provides for this and other cognate matters. Vessels registered under the provisions of the Merchant Shipping Act, 1894, will be registered under this Act on payment of prescribed fees and the transfer of ownership of such vessels shall be subject to the approval of the Central Government.

K. SANTHANAM.

NEW DELHI,

The 27th January 1951.

BILL *No. 13 OF 1951.

A Bill to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April 1951.

BE it enacted by Parliament as follows:

1. Short title.—This Act may be called the Finance Act 1951.

2. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (3), (4) and (5), for the year beginning on the 1st day of April 1951,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, increased in each case by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of income-tax and

XI of 1922.

(b) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as "the Income-tax Act"), be those specified in Part II of the First Schedule, increased in the cases to which Paragraphs A, B and C of that Part apply, by a surcharge for the purposes of the Union at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March 1952, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income but not exceeding in any case four thousand rupees.

* The President has, in pursuance of clauses (1) and (3) of Article 117 and clause (1) of Article 274 of the Constitution of India, recommended to the Parliament of India, the introduction and consideration of the Bill.

(3) In making any assessment for the year ending on the 31st day of March 1952,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities", or any income from dividends in respect of which by virtue of section 49B of the Income-tax Act he is deemed himself to have paid the income-tax imposed under that Act, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1950, on his total income the same proportion as the amount of such inclusions bears to his total income : XXV of 1950

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Finance Act, 1950, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March 1952,—

(a) where the total income of a company includes any profits and gains from life insurance business, the super-tax otherwise payable by the company on the whole of such total income shall be reduced by an amount which bears to that super-tax the same proportion as the amount of such inclusion bears to its total income or by an amount computed at the rate of one and a half annas in the rupee on the amount of such inclusion, whichever is less ;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable on his total income according to the rates applicable under the operation of the Indian Finance Act, 1942, increased in respect of each such rate by one-twentieth thereof, the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee. XII of 1942

(5) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3) and (4) of this section.

(6) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April 1951, under sub-section (2) or sub-section (2-B) of section 18 of the Income-tax Act from any earned income chargeable under the head "Salaries" the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15-B of the Income-tax Act is or may be applicable.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6-AA) of section 2 of that Act.

3. Amendment of section 17, Act XI of 1922.—With effect from the 1st day of April 1951, the following sub-section shall be substituted for sub-section (1) of section 17 of the Income-tax Act, namely:—

"(1) Where a person is not resident in the taxable territories and is not a company, the tax, including super-tax, payable by him or on his behalf on his total income shall be an amount equal to—

(a) the income-tax which would have been payable on his total income if calculated at the maximum rate, *plus*

(b) either the super-tax which would have been payable on his total income if calculated at the rate applicable in the case of an individual to the slab next to the slab exempt from super-tax, or the super-tax which would have been payable on his total income if he had been resident in the taxable territories, whichever is greater:

Provided that any such person may, on the first occasion on which he is assessable for any year subsequent to the year ending on the 31st day of March 1951, and before the expiry of the time allowed by the notice under sub-section (1) of section 22, by notice in writing to the Income-tax Officer, declare (such declaration being final and being applicable to all assessments thereafter) that the tax, including super-tax payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax including super-tax which would have been payable on his total world income had it been his total income the same proportion as his total income bears to his total world income."

4. Alteration of certain duties of customs.—In the First Schedule to the Indian Tariff Act, 1934 (XXXI of 1934),—

(a) in Item No. 27(5), for the entry in the fourth column, the following entry shall be substituted, namely:—

"Three annas per Imperial gallon or 20 per cent *ad valorem*, whichever is higher."

(b) in Item No. 27(7), in the fourth column,

(i) for the entry against sub-item (a), the entry

“Rs. 18.12 per ton or 20 per cent *ad valorem*, whichever is higher.” shall be substituted, and

(ii) for the entry against sub-item (b), the entry:

“20 per cent *ad valorem*.” shall be substituted;

(c) in Item No. 27(8), for the entry in the fourth column, the entry:

“Three annas per Imperial gallon or 20 per cent *ad valorem*, whichever is higher.” shall be substituted;

(d) for Items Nos. 75 (9), 75 (10), and 75 (11), the following Items shall be substituted, namely:—

75 (9) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters;	Preferen- tial revenue.	60% <i>ad</i> <i>valorem</i> .	54% <i>ad</i> <i>valorem</i> .
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(i) the following engine components:
rubber mountings, hose pipes (other than fuel line hoses) with connections, fuel pump diaphragms, fan belts, mufflers, exhaust pipes and tail pipes;

(ii) the following frame and body components:

carpets (made to size or shape), cushion springs, door and window fittings excluding glasses, trim materials (leather, jute, canvas and leather cloth) made to size or shape, bus bodies, station wagon bodies, truck bodies, steel cabs for lorries, pick up bodies and parcel van bodies; and

(iii) the following other components:

gaskets all sorts, rubber components not otherwise specified and horns not otherwise specified.

75 (10) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters:	Preferen- tial revenue.	90% <i>ad</i> <i>valorem</i> .	84% <i>ad</i> <i>valorem</i> .
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(i) the following engine components:
crank shafts, cam shafts connecting rods, cylinder blocks and heads, manifolds, valves, valve springs, valve tappets, fly wheels, petrol tanks, radiators, fans, piston assembly (namely pistons, piston rings and gudgeon pins), cylinder liners, water pumps, and timing gears and sprockets;

(ii) the following electrical components:

lamps other than head lamps, wire harness, battery and other cables made to size and horns;

(iii) the following transmission and suspension components:

front and rear springs other than coil springs, king pins, shackle pins, shock absorbers, spring hanger brackets, shackles, transmission gear and gear box, clutch housings, propeller shafts, universal joints including needle bearings therefor, rear axle assembly (axle housing, axle shaft, ring gear, pinion and carrier differential), front axles, hubs and brake drums and front suspension excluding coil springs;

- (iv) the following frame and body components:
seat runners, short members of chassis frame and brackets; and
- (v) the following other components:
brake hose pipes, ball bearings up to 2" bore, bushings separately imported (excluding oil impregnated bushings) and bumpers.
- 75 (11) The following articles, and parts thereof, adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters, namely:
- (i) the following engine components:
thin wall bearings, carburettors, oil pumps, air cleaners, oil filters, fuel pumps, and fuel line hoses with connections;
- (ii) the following electrical components:
distributors, sparking plugs, direction indicators, electrical penal instruments, wind shield wipers, starting motors, generators, head lamps including sealed beams fuses, switches, ignition coils and voltage and current regulators;
- (iii) the following transmission and suspension components:
steering mechanisms, pressed wheels, clutches and suspension coil springs;
- (iv) the following frame and body components:
toughened glass sheets, body panels including turret tops and sides for passenger cars and long members of chassis frames; and
- (v) the following other components:
roller bearings, bushings (oil impregnated), panel instruments other than electrical, and brake cylinders.
- 75 (12) Articles [other than rubber tyres, tubes, batteries and such other components as are specified in Items Nos. 75(9), 75(10) and 75(11)] adapted for use as parts and accessories of motor vehicles other than motor cycles and motor scooters.
- 75 (13) Parts of mechanically propelled vehicles and accessories not otherwise specified:
- | | | |
|-----------------------|-----------------|------------------|
| Preferential revenue. | 30% ad valorem. | 24% ad valorem. |
| Preferential revenue. | 30% ad valorem. | 22½% ad valorem. |

Provided that where any articles referred to in Items Nos. 75 (12) and 75 (13) are also ordinarily used otherwise than as parts and accessories of motor vehicles, they shall be dutiable at the rates of duty specified for such articles.

5. Additional duties of customs.—When any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under that Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall, up to the 31st day of March, 1952, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable—

(a) a sum equal to 155 per cent of such amount, in the case of goods comprised in Items Nos. 22(2) and 22(4);

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sum equal to 55 per cent of such amount, in the case comprised in Items Nos. 48, 48(1), 48(2), 48(4), 48(5), 48(6), 48(8), 48(10) and 51 (2) and in the case of textile articles specified in Item No. 49 when made wholly or partly of any of the fabrics specified in Items Nos. 48, 48(1), 48(2), 48(7) or 48(10);

sum equal to 45 per cent of such amount in the goods comprised in Items Nos. 47(2), 59(2), 59(4) and

sum equal to 25 per cent of such amount, in the goods comprised in any Item of the said schedule and those specified in clauses (a), (b) or (c) of this section in the Second or Third Schedule to this Act; and

sum equal to 5 per cent of such amount in the case comprised in any of the Items of the said Schedule in the Third Schedule to this Act:

that in the case of goods comprised in items Nos. 48 and 49 inclusive, and in the case of textile manufactures comprised in sub-items (a) and (b) of Item No. 49, if the duty of customs being leviable on like goods or, as the case may be, on articles of which such textile manufactures are wholly or partly comprised exceeds the sum of—

the duty of customs chargeable under the First Schedule to the Indian Tariff Act, 1934, or under that Schedule or any notification of the Central Government for the time being in force, and

the additional duty of customs chargeable under clause (d) of this section,

up to the 31st day of March, 1952, be levied and collected in addition to, and in the same manner as, the duties so chargeable an amount equal to the aforesaid

6. Imposition and alteration of certain export duties.—In the Second Schedule to the Indian Tariff Act, 1934 (XXXII of 1934) after Item No. 11, the following Items shall be inserted, namely:

12. Ground nuts	...	Ton	Rs. 80.
13. Cloth, medium and coarse, excluding furnishing fabrics, hosiery, apparel, blankets, bed covers, towels, dusters and napkins.	...	<i>ad valorem</i>	10 per cent

7. Amendment of Act I of 1944, and alteration of certain duties of Central Excise.—In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944),—

(a) in Item No. 4, in sub-item (a), after the words “motor vehicle” the words “or aircraft” shall be inserted, and

(b) for Item No. 9, the following Item shall be substituted, namely:—

9. TOBACCO

‘Tobacco’ means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalks and stems of the tobacco plant, but does not

include any part of a tobacco plant while still attached to the earth.

I. *Unmanufactured tobacco*—

	<i>Per lb.</i>
(1) if flue-cured and ordinarily used otherwise than for the manufacture of cigarettes.	One Rupee.
(2) if other than flue-cured and ordinarily used otherwise than for the manufacture of cigarettes.	Eight annas.
(3) if flue-cured and used in the manufacture of cigarettes containing—	
(i) more than 60 per cent weight of imported tobacco.	Seven rupees and eight annas.
(ii) more than 40 per cent but not more than 60 per cent weight of imported tobacco.	Five rupees.
(iii) more than 20 per cent but not more than 40 per cent weight of imported tobacco.	Three rupees and eight annas.
(iv) 20 per cent or less than 20 per cent weight of imported tobacco.	Two rupees and eight annas.
(v) no imported tobacco	One rupee.
(4) if other than flue-cured and used in the manufacture of cigarettes.	Eight annas.
(5) If used for agricultural purposes	Nil
(6) Stalks	One anna.

II. *Manufactured tobacco*—

	<i>Per hundred</i>
(1) Cigars and cheroots of which the value—	
(i) exceeds Rs. 30 a hundred	Twelve rupees.
(ii) exceeds Rs. 25 a hundred but does not exceed Rs. 30 a hundred.	Ten rupees.
(iii) exceeds Rs. 20 a hundred but does not exceed Rs. 25 a hundred.	Eight rupees.
(iv) exceeds Rs. 15 a hundred but does not exceed Rs. 20 a hundred.	Six rupees.
(v) exceeds Rs. 10 a hundred but does not exceed Rs. 15 a hundred.	Four rupees.
(vi) exceeds Rs. 5 a hundred but does not exceed Rs. 10 a hundred.	Two rupees.
(vii) exceeds Rs. 2-8-0 a hundred but does not exceed Rs. 5 a hundred	One rupee.
(viii) exceeds Rs. 1-4-0 a hundred but does not exceed Rs. 2-8-0 a hundred.	Eight annas.
(ix) exceeds 12 annas a hundred but does not exceed Rs. 1-4-0 a hundred.	Four annas
(2) Cigarettes of which the value—	<i>Per thousand</i>
(i) exceeds Rs. 50 a thousand	Twelve rupees and eight annas.
(ii) exceeds Rs. 40 a thousand but does not exceed Rs. 50 a thousand.	Ten rupees.
(iii) exceeds Rs. 30 a thousand but does not exceed Rs. 40 a thousand.	Seven rupees and eight annas.
(iv) exceeds Rs. 25 a thousand but does not exceed Rs. 30 a thousand.	Six rupees and four annas.
(v) exceeds Rs. 20 a thousand but does not exceed Rs. 25 a thousand.	Five rupees.
(vi) exceeds Rs. 15 a thousand but does not exceed Rs. 20 a thousand.	Three rupees and twelve annas.
(vii) exceeds Rs. 10 a thousand but does not exceed Rs. 15 a thousand.	Two rupees and twelve annas.
(viii) exceeds Rs. 7-8-0 a thousand but does not exceed Rs. 10 a thousand.	One rupee and eight annas.
(ix) does not exceed Rs. 7-8-0 a thousand.	One rupee.
(3) Pipe tobacco	<i>Per lb.</i> Six rupees and eight annas.
(4) Snuff	Eight annas.
(5) Biris—	<i>Per thousand</i>
(i) Containing more than 3/4 lb. of tobacco per thousand biris.	Nine annas.
(ii) containing not more than 3/4 lb. of tobacco per thousand biris.	Six annas.

8. **Additional duties of excise.**—When any goods chargeable with a duty of excise under the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), are assessed to duty, there

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shall, up to the 31st day of March, 1952, be levied and collected as an addition to, and in the same manner as, the total amount so chargeable—

(a) as respects kerosene and motor spirit as defined in Items Nos. 1 and 4, respectively, of that Schedule, a surcharge equal to 5 per cent of such amount in each such case ;

(b) as respects cigarettes specified in Item No. 9 II (2) ;

(i) where the retail price is at a rate exceeding 2 annas, but not exceeding $5\frac{1}{2}$ annas per ten cigarettes, a surcharge calculated at three pies for every ten cigarettes, and

(ii) where the retail price is at a rate exceeding $5\frac{1}{2}$ annas per ten cigarettes, a surcharge calculated at the rate of six pies for every ten cigarettes.

9. Discontinuance of salt duty.—For the year beginning on the 1st day of April, 1951, no duty shall be levied on salt manufactured in, or imported by sea or land into the territory of India excluding the State of Jammu and Kashmir.

Declaration under the Provisional Collection of Taxes Act, 1931.—

It is hereby declared that it is expedient in the public interest that the provisions of clauses 4, 5, 6, 7 and 8 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

THE FIRST SCHEDULE

(See section 2)

PART I

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C of this Part applies—

	<i>Rate</i>	<i>Surcharge</i>
1. On the first Rs. 1,500 of total income.	Nil	Nil.
2. On the next Rs. 3,500 of total income.	Nine pies in the rupee	One-twentieth of the rate specified in the preceding column.
3. On the next Rs. 5,000 of total income.	One anna and nine pies in the rupee.	Do
4. On the next Rs. 5,000 of total income.	Three annas in the rupee.	Do
5. On the balance of total income.	Four annas in the rupee.	Do

Provided that—

- (i) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed the limit specified below;
- (ii) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds the said limit;
- (iii) the income-tax payable on the total income, as reduced by the allowance for earned income shall not exceed either—
 - (a) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds the said limit the same proportion as such reduced total income bears to the unreduced total income, or
 - (b) the income-tax payable on the income so reduced at the rates herein specified,—
 whichever is less.

The limit referred to in the above proviso shall be—

- (i) Rs. 7,200 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely :—

- (a) that it has at least two members entitled to claim partition who are not less than 18 years of age; or
- (b) that it has at least two members entitled to claim partition neither of whom is a lineal descendant of the other and both of whom are not lineally descended from any other living member of the family; and

- (ii) Rs. 3,600 in every other case.

Explanation.—For the purposes of this paragraph, in the case of every Hindu undivided family governed by the Mitakshara law, son shall be deemed to be entitled to claim partition of the coparcenary property against his father or grandfather, notwithstanding any custom to the contrary.

B. In the case of every company—

On the whole of total income	Rate	Surcharge
Four annas in the rupee.	One-twentieth of the rate specified in the preceding column.	

Provided that in the case of a company which, in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment within the territory of India excluding the State of Jammu and Kashmir, of the dividends payable out of such profits, and has deducted super-tax from the dividends in accordance with the provisions of sub-section (3-D) or (3-E) of section 18 of that Act—

- (i) where the total income, as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax,

exceeds the amount of any dividends (including dividend payable at a fixed rate) declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1952, no order has been made under sub-section (1) of section 23-A of the Income-tax Act, a rebate shall be allowed, at the rate of one anna per rupee on the amount of such excess;

(ii) where the amount of dividends referred to in clause (i) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess (hereinafter referred to as "the excess dividend") falls short of the amount calculated at the rate of five annas per rupee on the excess dividend.

For the purposes of the above proviso, the expression "dividend" shall have the meaning assigned to it in clause (6-A) of section 2 of the Income-tax Act, but any distribution included in that expression, made during the year ending on the 31st day of March, 1952, shall be deemed to be dividend declared in respect of the whole or part of the previous year.

For the purposes of clause (ii) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows:—

(i) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(ii) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(a) If an order has been made under sub-section (1) of section 23-A of the Income-tax Act, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(b) in respect of any other year, at the rate applicable to the total income of the company, for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every local authority and in every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate—

	Rate.	Surcharge.
On the whole of total income ...	Four annas in the rupee.	One-twentieth of the rate specified in the preceding column.

211 PART II.

Rates of Super-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	<i>Rate.</i>	<i>Surcharge.</i>
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the next Rs. 15,000 of total income.	Three annas in the rupee.	One-twentieth of the rate specified in the preceding column.
3. On the next Rs. 15,000 of total income.	Four annas in the rupee.	Do
4. On the next Rs. 15,000 of total income.	Six annas in the rupee.	Do
5. On the next Rs. 15,000 of total income.	Seven annas in the rupee.	Do
6. On the next Rs. 15,000 of total income.	Seven and a half annas in the rupee.	Do
7. On the next Rs. 50,000 of total income.	Eight annas in the rupee.	Do
8. On the balance of total income.	Eight and a half annas in the rupee.	Do

B. In the case of every local authority :—

	<i>Rate.</i>	<i>Surcharge.</i>
On the whole of total income	Two and a half annas in the rupee.	Three pies in the rupee.

I of 1912.

C. In the case of an association of persons being a co-operative society (other than the Sanikatta Saltowners' Society in the State of Bombay) for the time being registered under the Co-operative Societies Act, 1912 or under any law of a State governing the registration of co-operative societies—

	<i>Rate.</i>	<i>Surcharge.</i>
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the balance of total income	Two and a half annas in the rupee.	Three pies in the rupee.

D. In the case of every company :—

	<i>Rate.</i>
On the whole of total income	Four annas and nine pies in the rupee.

Provided that—

(i) a rebate at the rate of three annas per rupee of the total income shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1952, has made the prescribed arrangements for the declaration and payment in the territory of India) excluding the State of Jammu and Kashmir of the dividend payable out of such profits and for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of that Act, and

(b) is a public company with total income not including Rs. 25,000;

(ii) a rebate at the rate of two annas per rupee of the total income shall be allowed in the case of any company which satisfies condition (a), but not condition (b), of the preceding clause; and,

(iii) a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, not being entitled to a rebate under either of the preceding clauses, is—

(a) a public company whose shares were offered for sale in a recognised stock exchange at any time during the previous year, or

(b) a company all of whose shares were held at the end of the previous year by one or more such public companies as aforesaid:

Provided further that the super-tax payable by a company the total income of which exceeds Rs. 25,000 shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been Rs. 25,000, and

(b) half the amount by which its total income exceeds Rs. 25,000.

Explanation.—For the purposes of this paragraph of this Part, a company shall be deemed to be a public company only if it is neither a private company within the meaning of the Indian Companies Act, 1913, nor a company in which shares carrying more than fifty per cent of the total voting power were, at any time during the previous year, held or controlled by less than six persons. VII of 1913.

THE SECOND SCHEDULE

(See Section 5)

Goods on which additional duty of customs is not leviable.

Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, namely—

2, 4(1), 4(3), 4(4), 4(5), 7(1), 8(1), 8(4), 8(5), 9(6), 9(7), 12(6), 13(8), 13(9), 15(5), 15(9), 15(10), 15(11), 15(12), 16, 16(1), 16(3), 20(6), 20(7), 21(4), 21(5), 21(6), 21(7), 21(8), 21(9), 22(3), 22(5), 27(1), 27(3), 27(9), 28(21), 28(22), 28(23), 28(24), 28(25), 28(26), 28(27), 28(28), 28(29), 28(30), 30(2), 30(11), 30(12), 30(13), 31(4), 40(6), 40(7), 44(1), 45(3), 49(c), 49(2), 52(4), 53(2), 55(1), 55(2), 55(3), 60(4), 60(5), 61(11), 71(9), 71(10), 72(4), 72(5), 72(15), 72(16), 72(17), 72(18), 72(19), 72(20), 72(21), 72(22), 72(23), 72(24), 72(25), 72(26), 72(27), 72(28), 73(4), 73(8), 73(9), 73(10), 73(11), 73(12), 73(13), 74(4), 77(4), 78(1), 79 and 84(1).

213 THE THIRD SCHEDULE

(See section 5)

Goods on which additional duty of customs at 5 per cent is leviable.

Goods comprised in the following Items of the First Schedule to the Indian Tariff Act, 1934, namely,—

4, 8(2), 8(3), 9(3), 9(5), 11(2), 11(4), 11(5), 13(4), 15, 20(1), 20(2), 20(3), 20(4), 20(5), 20(8), 20(9), 21(3), 24, 24(1), 24(2), 24(3), 25(1), 27(2), 27(4), 27(5), 27(6), 28, 28(8), 28(14), 28(15), 28(16), 28(17), 28(18), 28(19), 28(20), 29, 29(1), 30, 30(1), 30(9), 30(10), 34(3), 40(4), 40(5), 43, 44, 45, 46(3), 51, 55, 60, 60(2), 60(3), 60(6), 61(2), 61(3), 61(8), 61(9), 62(1), 62(2), 63(14), 63(30), 63(31), 63(32), 63(33), 63(34), 63(35), 64, 64(3), 64(4), 65, 66, 66(1), 67, 67(1), 67(2), 68, 68(2), 69(2), 70, 70(1), 70(2), 70(3), 70(4), 70(5), 70(6), 70(9), 71(2), 71(3), 71(7), 71(8), 72, 72(1), 72(2), 72(3), 72(11), 72(12), 72(13), 72(14), 72(33), 73(2), 73(7), 73(14), 73(15), 74(2), 75, 75(1), 75(2), 75(3), 75(5), 75(6), 75(7), 75(8), 75(9), 75(10), 75(11), 75(12), 75(13), 77(2), 77(5), 78, 82(1), 84 and 85(1).

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to give effect to the financial proposal of the Government of India for the next financial year, and to provide for certain connected matters.

The Bill prescribes, as usual, the rates of income-tax and super-tax and surcharges thereon, for the next financial year. The main changes from the existing rates are :

(a) the imposition of a surcharge of 5 per cent for purposes of the Union, on all income-tax and super-tax rates, other than the super-tax rates applicable to companies, local authorities, and co-operative societies;

(b) the imposition of a surcharge of 3 pies in the rupee, for purposes of the Union, on the super-tax rate applicable to local authorities, and co-operative societies; and

(c) an increase by 3 pies in the rupee in the rate of super-tax applicable to companies.

An amendment is also made to section 17 in regard to the basis of assessment of non-residents.

In regard to import duties, the Bill proposes to increase the existing surcharges by 5 per cent, and to levy enhanced duties on certain alcoholic drinks and mineral oils other than motor spirit and kerosene. It is also proposed to reimpose a low export duty on groundnut kernel and coarse and medium cloth of certain varieties. It is further proposed to rationalise the Central Excise tariff relating to tobacco so as to remove certain anomalies and administrative difficulties in its working and simultaneously to revise the basis of taxation in a manner to permit of the levy of leaf duties in accordance with the type of tobacco and additional

duties on manufacture of tobacco according to the class of manufacture. A surcharge on cigarettes is also proposed as a revenue measure for the current year.

NEW DELHI,
The 28th February, 1951.

C. D. DESHMUKH.

NOTES ON CLAUSES

Clause 2 and the First Schedule prescribe the rates of income-tax, super-tax and surcharges on income-tax and super-tax for the year 1951-52, on the usual lines.

Clause 3 amends sub-section (1) of section 17 of the Indian Income-tax Act, 1922. At present, a non-resident citizen of India or a British subject is chargeable to income-tax on his Indian income at the rate appropriate to his total world income, while any other a non-resident pays income-tax at the standard or the maximum rate. The amendment seeks to abolish any distinction based on nationality, and to apply the standard rate of income-tax to all non-residents.

As regards super-tax, it is proposed that all non-residents other than companies should pay super-tax at a flat rate, subject to the condition that the amount of super-tax shall not be less than that payable by a resident having the same total income.

All non-residents are, however, being allowed to exercise, within a certain time limit, the option of being assessed on the basis now applicable to a non-resident who is a citizen of India or a British subject.

Clause 4: The main changes made in the import tariff are those relating to mineral oils other than kerosene and motor spirit and cover mineral oils suitable for use as illuminants, for the batching of jute, as fuel or for sanitary and hygienic purposes and as lubricating oils. In order to make the incidence of the duty more even and rational, as an alternative to the specific rates, a limit of 20 per cent *ad valorem*, if it is higher, has been prescribed. The clause also revises the headings relating to assessment of parts and accessories of motor vehicles following the recommendations of an Expert Committee. The main change is the transfer from the highest duty category to a lower category of certain parts and accessories which are either proprietary items or are not capable of being manufactured in India within two years.

Clause 5: The main changes in regard to additional duties or surcharges are (a) the overall increase of 5 per cent in the scale of surcharges as prescribed in the Finance Act, 1950, (b) the levy of surcharges on all items other than those for which the rates of duty have been bound under the General Agreement on Tariffs and Trade, and (c) the enhancement of the basic surcharge from 100 per cent to 150 per cent in the case of certain categories of alcoholic drinks.

Clause 6: The export duty on groundnut will be at the level of the duty formerly levied in 1948, namely Rs. 80 per ton. In

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regard to cloth, only certain categories of medium and coarse cloth will pay the duty. Superfine and fine cloth as well as certain varieties even in the above categories are exempt.

Clauses 7 and 8: The main change is in regard to the rationalisation of the taxation headings relating to tobacco and tobacco products. The change is intended to introduce a more logical basis of taxation on leaf tobacco according to its category (flue-cured or other than flue-cured) and, ordinary use; and to secure the levy of flat rates of leaf duty on tobacco used otherwise than in the manufacture of cigarettes, and of graduated rates of duty on tobacco leaf used in the manufacture of cigarettes, cigars and on manufactured products, namely, cigarettes, cigars and cheroots, pipe tobacco, snuff and biris. A surcharge is being levied on kerosene and motor spirit to equal the customs surcharge which has become leviable under Clause 5. A surcharge is also levied at graduated rates on certain categories of cigarettes other than the cheapest.

Clause 9: The discontinuance of the salt duty is maintained for the next year.

The following Bills were introduced in Parliament on the 5th March, 1951 :—

BILL No. 14 OF 1951

A Bill further to amend the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Codes of Civil and Criminal Procedure (Amendment) Act, 1951.

2. Amendment of Act V of 1908.—In the Code of Civil Procedure, 1908,—

(i) to section 113, the following proviso shall be added, namely :—

“ Provided that where the court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the opinion of the High Court,

Explanation.—In this section, “ Regulation ” means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.” ;

(ii) in Order XLVI of the First Schedule,—

(a) after rule 4, the following rule shall be inserted, namely :—

“ 4A. The provisions of rules 2, 3 and 4 shall apply to any reference by the court under the proviso to section 113 as they apply to a reference under rule 1 ” ; and

(b) in rule 5, after the words and figure “under rule 1” the words and figures “or under the proviso to section 113” shall be inserted.

3. Substitution of new section for section 432 in Act V of 1898.—For section 432 of the said Code, the following section shall be substituted, namely :—

“432. *Reference to High Court.*—(1) Where any court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that court is subordinate or by the Supreme Court, the court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, “Regulation” means any Regulation of the Bengal, Bombay or Madras Code or Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

(2) A presidency magistrate may, if he thinks fit in any case pending before him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.”

STATEMENT OF OBJECTS AND REASONS

During the last year, a few cases have come to notice in which subordinate courts have taken upon themselves the grave responsibility of declaring enactments of the Legislature to be void under the Constitution.

Article 228 of the Constitution casts on every High Court an obligation to withdraw from a subordinate court any case if it is satisfied that the case involves a substantial question of law as to the interpretation of the Constitution, and then either dispose of the case itself or determine the question of law and remit it to the subordinate court for disposal. The invalidity of an enactment must necessarily give rise to a substantial question of law as to the interpretation of the Constitution.

It is no doubt possible for parties who are vigilant enough, to apply to the High Court in time under Article 228 of the Constitution for withdrawing a case from a subordinate court, instead of allowing that court to pronounce on the validity or invalidity of an enactment, and this is equally true of Government in criminal cases. In practice, however, they often fail to take prompt action. The result, in the words of Cooley, the well-known writer on American constitutional law, is that we have “the ludicrous spectacle of an inferior magistrate having merely police or other limited jurisdiction assuming to pass judgment upon the legislation of a State or country and declare it invalid.” The responsible duty of declaring an enactment invalid, and

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ing the solemn decision of the Legislature, should be discharged
superior courts of the country.

Accordingly proposes to amend section 113 of the Code of Civil
section 432 of the Code of Criminal Procedure so as to make it
the part of the subordinate courts to make a reference to the
in every case where the subordinate court is satisfied—

(a) that the case before it involves a question as to the validity of
an enactment, the determination of which is necessary for the disposal
of the case;

(b) that the enactment has not been authoritatively declared to be
invalid; and

(c) that in its own opinion the enactment is invalid or inoperative.

NEW DELHI;

B. R. AMBEDKAR.

The 1st March, 1951.

NOTIFICATION. 218

No. L.D. 552—Legis. 3-51-10, dated Bangalore, 8th June 1951.

Ordered that the accompanying Sea Customs and the Central Excises and Salt (Amendment) Bill, 1951, (Central Bill No. 50 of 1951) published in the *Gazette of India*, Part II, Section 2, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Parliament of India.

The following Bill was introduced in Parliament on the 18th May, 1951 :—

BILL NO. *50 OF 1951.

A Bill further to amend the Sea Customs Act, 1878 and the Central Excises and Salt Act, 1944.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Sea Customs and the Central Excises and Salt (Amendment) Act, 1951.

2. Amendment of section 20, Act VIII of 1878.—Section 20 of the Sea Customs Act, 1878 (hereinafter referred to as the principal Act) shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

“(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to the Government of a Part A State or a Part B State and used for the purposes of a trade or business of any kind carried on by, or on behalf of, that Government or of any operations connected with such trade or business as they apply in respect of goods not belonging to any Government.”

3. Amendment of section 38, Act VIII of 1878.—After the proviso to section 38 of the principal Act, the following further proviso shall be inserted, namely :—

“Provided further that where a shipping bill is delivered in anticipation of the arrival of any vessel or before an order is given under Section 61 for

*The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

entry of the vessel outwards, it shall, for the purpose of this section, be deemed to have been delivered on the date on which that vessel arrives or that order is given, whichever is later."

4. Amendment of section 39, Act VIII of 1878.—In section 39 of the principal Act, for the words "on demand being made" the words "on a notice of demand being issued to him" shall be substituted.

5. Amendment of section 111, Act VIII of 1878.—In section 111 of the principal Act, after the words "penalties, interest" the words "export duties" shall be inserted.

6. Amendment of section 3, Act I of 1944.—After sub-section (1) of section 3 of the Central Excises and Salt Act, 1944, the following sub-section shall be inserted, namely:—

"(1A) The provisions of sub-section (1) shall apply in respect of all excisable goods other than salt which are produced or manufactured in India by, or on behalf of, the Government of a Part A State or a Part B State and used for the purposes of a trade or business of any kind carried on by, or on behalf of, that Government, or of any operations connected with such trade or business as they apply in respect of goods which are not produced or manufactured by any Government."

STATEMENT OF OBJECTS AND REASONS.

Prior to the commencement of the Constitution, customs duties were levied on all goods imported or exported by State Governments unless specifically exempted under section 23 of the Sea Customs Act. Central excise duties were also payable by all State Governments on all excisable goods produced or manufactured in undertakings carried on by them or on their behalf. The liability was extended to Part B States also on their financial integration by the extension to them of the Central Taxation Laws. Article 289(1) of the Constitution, however, exempts the property and income of a State from Union taxation, leaving it to Parliament under clause (2) of the article to regulate the imposition or continuance of such taxes.

2. The present Bill seeks to amend the Sea Customs Act, 1878, and the Central Excises and Salt Act, 1944, in order to restore the pre-existing position authorising the levy of customs duties and Central excise duties on all goods which are used for the purposes of trade or business carried on by, or on behalf of, the Government of a Part A State or a Part B State (as distinct from the purposes incidental to the ordinary functions of Government). Opportunity has also been taken to incorporate in the Bill certain amendments to the Sea Customs Act, 1878, to remove defects that have come to notice in the application of that Act as regards levy of export duties and issue of notice of demand for short recoveries of tax.

MAHAVIR TYAGI.

NEW DELHI;

The 9th May, 1951.

Notes on Clauses. 220

1. *Clause 2.*—This seeks to remove the legal bar under Article 289(1) of the Constitution to the continued levy of customs duties on goods imported or exported by or on behalf of a State Government and used for the purposes of trade or business of any kind.

2. *Clause 3.*—Export duty is ordinarily levied at the rate prevalent on the date of delivery of the shipping bill. Where for the convenience of the trade, exporters are allowed to deliver shipping bills in advance of the arrival of the vessel, it is proposed, in order to safeguard the interests of revenue where the export duty is enhanced after such prior acceptance of the shipping bill, that the shipping bill should be deemed to be delivered only on the date when the vessel arrives or an order is given for entry of the vessel outwards, whichever is later.

3. *Clause 4.*—This clause seeks to clarify the point from which the time limit for recovery of short levy of customs duties is due to be computed.

4. *Clause 5.*—This removes a lacuna in section 111 of the Sea Customs Act and provides for the levy of export duties which have been imposed on goods that had remained warehoused on importation, that is, had been bonded on importation without payment of import duty.

5. *Clause 6.*—This clause seeks to remove the legal bar under Article 289(1) of the Constitution to the continued levy of central excise duties on goods produced or manufactured in an undertaking carried on by or on behalf of a State Government and used for the purposes of trade or business of any kind.

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NOTIFICATION.

No. L.D. 553—Legis. 3-51-11, dated Bangalore, 8th June 1951.

Ordered that the accompanying Indian Merchant Shipping (Amendment) Bill, 1951 (Central Bill No. 51 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Parliament of India

The following Bills were introduced in Parliament on the 22nd May, 1951:—

BILL No. 51 OF 1951.

A Bill further to amend the Indian Merchant Shipping Act, 1923.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Indian Merchant Shipping (Amendment) Act, 1951.

2. Insertion of new sections 26A and 26 B in Act XXI of 1923.—In the Indian Merchant Shipping Act, 1923, under the heading "*Engagement of Seamen*" and before section 27, the following sections shall be inserted, namely:—

"26A. *Medical examination of seamen.*—(1) Subject to the provisions of any rules made under sub-section (3), no person shall engage or carry to sea any seaman to work in any capacity in any ship unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and, in particular and without prejudice to the generality of such power, any rules so made may provide for—

(a) the standard of physical fitness required of seamen, and different standards may be laid down in different cases or for different classes of seamen, having regard to the age of the seamen to be examined or the nature of the duties to be performed by them;

(b) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted and the fees payable therefor;

(c) the form and contents of medical certificates and the period of their validity;

(d) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination;

(e) the circumstances in which or the conditions subject to which any seaman or class of seamen may be exempted from the operation of sub-section (1).

26B. *Qualifications for seamen.*—(1) From such date as may be fixed in this behalf by the Central Government by notification in the Official Gazette, no seaman shall be engaged or carried to sea to work in any capacity in any ship unless he possesses the prescribed qualifications.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and in particular and without prejudice to the generality of such power, any rules so made may provide for—

(a) the courses of training to be pursued, or

(b) the vocational standards to be attained, or

(c) the tests to be passed,

by seamen generally or by any class of seamen in particular."

STATEMENT OF OBJECTS AND REASONS.

Section 37D of the Indian Merchant Shipping Act, 1923 (XXI of 1923), provides for the medical examination of young persons below 18 years of age only, before they can be engaged or carried to sea to work in any capacity in any ship. In order to ensure the recruitment of proper persons who are both physically and otherwise fit for the performance of their duties, it is necessary to provide for the medical examination of all persons who may wish to join the seafaring profession and to prescribe their qualifications.

2. The standards of medical examination of, and the tests to be passed by, seamen will have to be sufficiently flexible in the first instance and, consequently, the Bill leaves the matter to be regulated by rules made in this behalf, the subjects on which rules may be made being set out in the Bill.

K. SANTHANAM.

NEW DELHI;

The 10th May, 1951.

NOTIFICATION.

No. L.D. 554—Legis. 3-51-12, dated Bangalore, the 8th June 1951.

Ordered that the accompanying Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Bill, 1951, (Central Bill No. 52 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

BILL NO. * 52 OF 1951.

A Bill to declare certain ancient and historical monuments and archaeological sites and remains in Part A States and Part B States, to be of national importance and to provide for certain matters connected therewith.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951.

2. Declaration of certain monuments and archaeological sites to be of national importance.—The ancient and historical monuments specified in Part I of the Schedule and the archaeological sites and remains specified in Part II thereof are hereby declared, respectively, to be of national importance.

3. Application of Act VII of 1904 to ancient monuments and archaeological sites to be of national importance.—All ancient and historical monuments and all archaeological sites and remains declared by this Act to be of national importance shall be deemed to be protected monuments and protected areas, respectively, within the meaning of the Ancient Monuments Preservation Act, 1904, and the provisions of that Act shall apply accordingly to the ancient and historical monuments or archaeological sites and remains, as the case may be, and shall be deemed to have so applied at all relevant times.

THE SCHEDULE

(See section 2.)

PART I.

Ancient and Historical Monuments.

I. All ancient and historical monuments in Part A States and Part B States which, before the commencement of this Act, have either been declared by the

* The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

Central Government, to be protected monuments within the meaning of the Ancient Monuments preservation Act, 1904, or which have been taken possession of by the Central Government as protected monuments.

II. The following ancient and historical monuments in Part B States not covered by Item No. I immediately preceding:

Serial No.	Name of monument	Locality
HYDERABAD STATE		
<i>District Aurangabad</i>		
1	Ajanta Caves	Ajanta
2	Aurangabad Caves	Aurangabad
3	Daulatabad Fort and Monuments therein (e.g. Chand Minar).	Daulatabad
4	Ellora Caves	Ellora
5	Pithalkhora Caves	Pithalkhora
6	Tomb of Aurangzeb	Khuldabad
7	Tomb of Malik Ambar	Do
8	Tomb of Rabia Daurani (Bibi-ka-Maqbara)	Aurangabad
<i>District Bidar</i>		
9	Baibmani Tombs	Ashtur
10	Barid Shahi Tombs	Bidar City
11	Bidar Fort	Do
12	Madrasa Mahmud Gawan	Do
<i>District Gulbarga</i>		
13	Gulbarga Fort and Great Mosque in the Fort	Gulbarga
14	Hafti Gumbad Tomb of Firoz Shah	Do
<i>District Hyderabad</i>		
15	Char Minar	Hyderabad City
16	Golconda Fort and Tombs	Golconda
<i>District Parbhani</i>		
17	Nagnath Temple	Aundha
<i>District Raichur</i>		
18	Alampur Temples	Alampur
19	Mahadev Temple	Ittagi
<i>District Warangal</i>		
20	Ramappa Temple	Palampet
21	Thousand Pillar Temple	Hanamkonda
	Defences and Gateways	Warangal
MADHYA BHARAT STATE		
<i>District Bhilsa</i>		
		Gyrespur
		Do
3	Hindola Torana	Do
4	Maladevi Temple	Do
5	Bara Khambi	Udaypur
6	Pisnarika Temple	Do
7	Udayashwar Mahadeva Temple	Do

Serial No.	Name of monument	Locality
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MADHYA BHARAT STATE—*contd.**District Bhilsa—concl.*

8	Bhimagaja	Pathari
9	Caves	Do
10	Bijamandal Mosque	Bhilsa
11	Lohangi Hill Capital	Do
12	Caves 1 to 20	Udaygiri
13	Dashavatara Temple	Badoh
14	Gadernal Temple	Do
15	Jain Temple	Do
16	Sola Khambi	Do
17	Khamb Baba (Heliodorus Pillar)	Besnagar

District Bhind

18	Brick Temple	Kherat
19	Open Air Museum	Do
20	Fort	Ater

District Dewas

21	Sidheshwar Temple	Namawar
22	Unfinished Temple	Do

District Dhar

23	Adar Gumbaz	Mandu
24	Alamgir Gate	Do
25	Ancient Hindu Baodi	Do
26	Ancient Hindu well	Do
27	Andberi Baodi	Do
28	Ashrafi Mahal	Do
29	Baz Bahadur's Temple	Do
30	Bhagwania Gate	Do
31	Bhangi Gate	Do
32	Champa Baodi	Do
33	Chappan Mahal	Do
34	Chistikhan's Mahal	Do
35	Chor Kot	Do
36	Chorakot Mosque	Do
37	Compound wall	Do
38	Daika Mahal	Do
39	Daika Chote Behen ka Mahal	Do
40	Darya Khan's tomb	Do
41	Delhi Gate	Do
42	Dharamshala	Do
43	Dilawarkhan's Mosque	Do
44	Ekthumba Mahal	Do
45	Gadasa's Palace	Do
46	Gadasa's Shop	Do
47	Gadi Darwaja	Do
48	Hamman	Do
49	Hathi Gate	Do

Serial No.	Name of monument	Locality
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MADHYA BHARAT STAR—contd.

District Dhar—concl'd.

50	Hathi Mahal	...	...	Mandu
51	Hindola Mahal	...	...	Do
52	Hoshang's Tomb	...	...	Do
53	Jahaj Mahal	...	...	Do
54	Jahangirpur Gate	...	...	Do
55	Jama Masjid	...	...	Do
55A	Kali Baodi	...	...	Do
56	Kapoor Talao and the ruins on its banks	...	...	Do
57	Lal Bag	...	...	Do
58	Lal Bungalow	...	...	Do
59	Lohani Caves	...	...	Do
60	Lohani Gate	...	...	Do
61	Mahal	...	...	Do
62	Mahar Jharoka	...	...	Do
63	Mahmud's Tomb	...	...	Do
64	Malik Moghi's Mosque	...	...	Do
65	Mosque Near Sopi Tanka	...	...	Do
66	Mosque Near Tarapur Gate	...	...	Do
67	Mosque North-west of Daryakhan's Tomb	...	...	Do
68	Nameless Tomb	...	...	Do
69	Nameless Tomb	...	...	Do
70	Nameless Tomb	...	...	Do
71	Nameless Tomb	...	...	Mandu
72	Neelkanth	...	...	Do
73	Rampol Gate and the Mosque opposite to it	...	...	Do
74	Royal Palaces	...	...	Do
75	Rupmati Pavillion	...	...	Do
76	Sarai	...	...	Do
77	Sarai near Daryakhan's Tomb	...	...	Do
78	Sat Kothari Cave	...	...	Do
79	Somoti Kund	...	...	Do
80	Songarh Gate	...	...	Do
81	Tarapur Gate	...	...	Do
82	Teveli Mahal	...	...	Do
83	Tomb and Mosque attached	...	...	Do
84	Tomb North of Almgir Gate	...	...	Do
85	Tomb North of Daryakhan's tomb	...	...	Do
86	Tower of Victory	...	...	Do
87	Tripolia Gate	...	...	Do
88	Ujali Baodi	...	...	Do
89	Water Palace	...	...	Do
90	Bhoja Shala and Kamal Maula's Mosque	...	...	Dhar
91	Latki Masjid	...	...	Do
92	Buddhist Caves 1 to 7	...	...	Bagh
93	Water Palaces	...	...	Sadalpur

Serial No.	Name of monument	Locality
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MADHYA BHARAT STATE—contd.

District Gird

94	Mahadeva Temple	Amrol
95	Tila Monument	Pawaya
96	Tomb of Mohammad Ghause	Gwalior

District Guna

97	Jain Temples 1 to 5	Badhi Chanderi
98	Chanderi Fort:—	
	Bada Madarasa	Chanderi
	Battisi Baodi	Do
	Budal Mahal gateway	Do
	Jama Masjid	Do
	Kati Ghati	Do
	Koshak Mahal	Do
	Nizam-ud-din's Tomb	Do
	Shahjadi-ka-Roza	Do
99	Mohajamata Temple	Terahi
100	Monastory	Do
101	Terna gate	Do
102	Monastery	Khadwaha
103	Temples 2 to 7	Do

District Gwalior

104	Gwalior fort	
	Chaturbhuj Temple	Gwalior
	Mansingh's Palace	Do
	Rock cut Jain colossi	Do
	Sas Bahu Temples	Do
	Telika Mandir	Do

District Khargone

105	Ballaleshwar	Un.
106	Gupteshwar	Do
107	Jain Temple 1 to 3	Do
108	Temples of Mahakaleshwar 1 and 2	Do
109	Temple of Nilakantheswar	Do

District Mandasor

110	Brahmanical Rockcut Temples	Dhamnar
111	Buddhist Caves	Do
112	Nau-Torana Temple	Khor
113	Yasoduarman's Pillars of Victory	Sondhi

District Murena

114	Ekottarso Mahadeva Temple	Mitaoli
115	Gadhi	Padhavli
116	Kakanmadh Temple	Suhania
117	Temple	Padhavli
118	Temples 1 to 22	Naresar

Serial No.	Name of monument	Locality
MADHYA BHARAT STATE—concl'd.		
<i>District Sivapuri</i>		
119	Large Shiva Temple	... Mahua
120	Small Shiva Temple	... Do
121	Monstery	... Ranod
122	Monastery	... Surwaya
123	Open air museum	... Do
124	Shiva Temple	... Do
MYSORE STATE		
<i>District Bangalore</i>		
1	Aprameyaswami Temple	... Malur
2	Ashurkhana	... Doddaballapur
3	Cenotaph	... Bangalore
4	Old Dungeon Fort and Gates	... Do
5	Tipu Sultan's Palace	... Do
6	Fort	... Devanahalli
7	Tipu Sultan's Birthplace	... Do
8	Syed Ibrahim's Tomb or Bada Makkan	... Channapatna
<i>District Chitaldrug</i>		
9	Akkatangi Temple and Asoka inscription on Emmethammananagundi.	... Siddapur
10	Asoka inscriptions	... Brahmagiri
11	Fortress and Temples on the hill	... Chitaldrug
12	Hariharesvara Temple	... Harihar
13	Inscription and Jatingi, Rameswar Temple	... Jatingi Rameswar Hill.
14	Santhebagilu and Rangayyanabagilu with preserved Bastions.	... Chitaldrug
<i>District Hassan</i>		
15	Adinatha Basti	... Halebid
16	Hoysalesvara Temple	... Do
17	Kadaresvara Temple	... Do
18	Paravanatha Basti	... Do
19	Santhinatha Basti	... Do
20	Akkana Basti	... Sravanabelgola
21	Chandragupta Basti	... Do
22	Chavundaraya Basti	... Do
23	Gomatesvara	... Do
24	Inscriptions	... Do
25	Parsvanatha Basti	... Do
26	Buchesvara Temple	... Koravangala
27	Fort and Dungeons	... Manjarabad
28	Isvara Temple	... Arsikere
29	Kalyani	... Hulikere
30	Kesva Temple and inscriptions	... Belur
31	Lakshmidēvi Temple	... Doddagaddavalli
32	Lakshminarasimha Temple	... Nuggehalli
33	Sadashiva Temple	... Do
34	Nagesvara and Chennakesava Temple	... Mosale

Serial No.	Name of monument	Locality
MYSORE STATE—contd.		
<i>District Kadur</i>		
35	Amritesvara Temple	Amritapura
36	Mupastembha and Isvara Temple	Hiremagalur
37	Vidyasankara Temple	Sringeri
38	Viranarayana Temple	Belavadi
<i>District Kolar</i>		
39	Bhoganandisvara Temple	Nandi Hills
40	Tipu's Palace	Do
41	Yoganandisvara Temple	Do
42	Haidar Ali's Birthplace	Budikote
43	Kolarmma Temple	Kolar
44	Mokhbara (Mausoleum of Hyder Ali's Father)	Do
45	Somesvara Temple	Do
46	Ramalingesvara Temple and inscriptions	Avani
<i>District Mysore</i>		
47	Arkesvara Temple	Hale Alur
48	Gaurisvara Temple	Yelandur
49	Kesava Temple	Somanathapur
50	Kirthinarayana Temple	Talkad
51	Vaidyesvara Temple	Do
52	Lakshmikanta Temple	Mullur
53	Mallikarjuna Temple	Basral
54	Rameswara temple	Narasamangala
55	Sidlu Mallikarjuna temple	Bettadapur
56	Srikantesvara temple	Nanjangud
57	Sri Vijayanarayana temple	Gundlupet
<i>District Mandya.</i>		
58	Colonel Bailey's Dungeon	Srirangapatna
59	Daria Daulat Bagh	Do
60	Gumbaz	Do
61	Jumma Masjid	Do
62	Obelisk Monuments and Fort walls near the breach	Do
63	Spot where Tipu's body was found	Do
64	Sri Kanthirava statue in Narasimha temple	Do
65	Sri Ranganathaswami temple	Do
66	T. Innaman's Dungeon	Do
67	Kesava temple	Nagamangala
68	Lakshminarasimha temple	Marehalli
69	Lakshminarayana temple	Hosaholalu
70	Lakshminarayana temple	Sindhaghatta
71	Narayanaswami temple	Melkote
72	Panchakuta Basti	Kambadahalli
73	Panchalingeswara temple	Govindanahalli
74	Temples	Tonnur

Serial No.	Name of monument	Locality
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MYSORE STATE—concl'd.

District Shimoga.

75	Aghoresvara temple	Ikkeri
76	Anekal temple	Bandalike
77	Someswara temple	Do
78	Thrimurthinarayana temple	Do
79	Bastis and inscriptions	Huncha
80	Bherundeswara temple	Belgavi
81	Kedaresvara temple	Do
82	Tripurantesvara temple	Do
83	Devaganga ponds	Basavanabyane
84	Fort	Chennagiri
85	Fort	Kavaledurga
86	Fortress and Renuka temple	Chandragutti
87	Inscribed pillar	Malavalli
88	Inscribed pillar	Telugunda
89	Pranayesvara temple	Do
90	Jain basti with Brahmadeva Pillar	Melagi
91	Kaitabhesvara temple	Kubatur
92	Parsvanatha Basti	Do
93	Ramesvara temple	Do
94	Mallikarjuna and Ramesvara temples...	Kadkalsi
95	Musafirkhana and Honda	Santhebennur
96	Palace site outside Fort	Nagar
97	Ramesvara temple	Keladi
98	Ramesvara temple	Kudli
99	Shahji's tomb	Hodigere
100	Shivappa Naik's fort	Nagar
101	Temples and inscriptions	Udri
102	Ditto	Kupagadde

District Tumkur.

103	Channigaraya temple	Aralaguppe
104	Fort	Madhugiri
105	Jumma Masjid	Sira
106	Malik Rihan Darga	Do
107	Kedaresvara temple	Nagalapura
108	Onennakesvara temple	Do

PATIALA AND EAST PUNJAB STATES UNION

District Bhatinda

1	Bhatinda fort	Bhatinda
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District Kandaghat

2	Pinjaur gardens and monuments of Fidai Khan	Pinjaur
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Serial No.	Name of monument	Locality
RAJASTHAN STATE		
<i>District Alwar</i>		
1	Gumbad Khan-i-Khana	Alwar
2	Siva temple	Do
<i>District Banswara</i>		
3	Neel Kantha Mahadeva's temple	Banswara
4	Siva temple and Ruins	Arthuna
5	Sun temple	Talwara
<i>District Bharatpur</i>		
6	Akbar's Chhatra	Bayana
7	Ancient Fort with its monuments	Do
8	Brahmabad Idgah	Do
9	Islam Shah's Gate	Do
10	Jehangir's Gateway	Do
11	Jhajri	Do
12	Lodhi's Minar	Do
13	Saraj Sadulla	Do
14	Usha Mandir	Do
15	Chaurasi Khamba temple	Kaman
16	Colossal image of Yaksha	Noh
17	Deeg Bhawans (palace)	Deeg
18	Looted Gun	Do
19	Marble Jhoola	Do
20	Delhi Gate	Bharatpur Fort (outside)
21	Fateh Burj near Anah Gate	Bharatpur
22	Jawahar Burj	Bharatpur Fort (inside)
23	Lahl Mahal	Rupvas
<i>District Bikaner</i>		
24	Bhandasar Jaina temple	Bikaner
25	Fort Bhatner	Hanumangarh
26	Jain temple of Susani Goddess	Morkhena village
27	Pallu Jaina sculptures	Bikaner
<i>District Bundi</i>		
28	Wall paintings of Hardoti school in the palace	Bundi
<i>District Dholpur</i>		
29	Jogni Jogna temple	Dholpur
30	Sher Garh Fort	Do
<i>District Dungarpur</i>		
31	Jaina temple inscription	Baroda
32	Somnath temple	Dev Somnath

Serial No.	Name of monument	Locality
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RAJASTHAN STATE—contd.

District Jaipur

33	Banjaron-ki-Chhatri containing two pillars similar to the railing pillars of Bharhut stupa	Lalsote
34	Baori	Abaneri
35	Harsat Mata-ka-Mandir	Do
36	Baories old	Todaraisingh
37	Kala Pahar temple	Do
38	Kalyanraiji's temple	Do
39	Laxmi Narainji's temple	Do
40	Pipaji's temple (near dispensary)	Do
41	Bisal Deoji's temple	Bilaspur
42	Fresco paintings in the Ambar Places (personal property of the Maharaja)	Ambar
43	Jama Masjid	Do
44	Laxmi Narainji's temple	Do
45	Sri Jagat Siromaniji temple	Do
46	Sun temple	Do
47	Hathi Batha	Kakore
48	Inscription in Fort	Nagar
49	Mand Killa tal inscription	Do
50	Yupa pillars in Bichpuria temple	Do
51	Inscription	Panwar
52	Jain temple	Sawai Madhopur
		Alanpur
53	Persian inscription in a Baori	Do
54	Punderikji ki Haveli—Paintings in a room	Brahmpure
55	Temple containing Fresco paintings	Cultaji
56	Yupa pillars recovered from mounds	Barnala

District Jaisalmer

57	Fort including ancient temples	Jaisalmer
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District Jhalawar

58	Buddhist Caves	Hathiagor
59	Buddhist Caves, Pillars, Idols	Kolvi (Dag)
60	Buddhist Caves and Pillars	Binnayaga (Dag)
61	Caves of Naranjani, etc.	Do
62	Old temples near the Chanderabhaga	Jhalrapatan

District Jodhpur

63	Fort	Mandore
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District Karauli

64	Wall paintings in the places of Maharaja Gopal Lal	Karauli
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Serial No.	Name of monument	Locality
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RAJASTHAN STATE—concl'd.

District Kotah

65	Old temples, statues and inscription ...	Shergarh
66	Siva temple and two unpublished Gupta inscriptions ...	Charchoma
67	Temple (12th century) ...	Baran
68	Temple with inscriptions ...	Kenswa
69	Yupa pillars ...	Badva

District Udaipur

70	Fort of Chitor as a whole ...	Chitor
71	Fort of Kumbhalgarh as a whole ...	Kumbhalgarh
72	Maha Kaland two other temples ...	Bijholi
73	Rock inscription (12th century) ...	Do
74	Sas Bahu temples ...	Nagada

SAURASHTRA STATE

1	Ananteshwar temple ...	Anandpur
2	Ashokan Rock ...	Junagadh
3	Caves ...	Do
4	Darbargadh Halvad ...	Halvad
5	Dhank Caves ...	Dhank
6	Gop temple ...	Gop
7	House where Mahatma Gandhi was born and Kirti Mandir	Porbandar
8	Inscription in the Harsata Mata temple ...	Veraval
9	Jain temples ...	Taleja
10	Jama Masjid ...	Veraval
11	Jami Masjid and Rahimat Masjid, Raveli Masjid	Mangrol
12	Navlakha temple and Step well ...	Ghumli
13	Navlakha temple ...	Sejakpur
14	Neminath temple with 3 inscriptions V. S. 1288 ...	Mt. Girnar
15	Nilakantha temple ...	Anandpur
16	Pindara, Durvasa Rishi's Ashram and its site ...	Pindara
17	Rakhengar Mahal (temple) ...	Mt. Girnar
18	Ranik Devi's temple ...	Wadhwan
19	Sun temple ...	Than
20	Surya temple ...	Sutrapada
21	Talaja Caves ...	Talaja
22	Temples—	Shatrunjay Hill
	Adishwar temple	
	Balabhai's temple	
	Bhulavani temple	
	Chaumukha temple	
	Dalpet Bhai and Bhagu Bhai's shrine	
	Keshwaji Nayak temple	
	Moti Shah's Tuk temple	
	Nandeshwara Dipa temple	
	Panch Pandava temple	

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Serial No.	Name of monument	Locality
TRAVANCORE-COCHIN STATE		
<i>District Trichur</i>		
1	Mural Paintings (16-17th Century) on the walls of the Ten-Kailasanatha temple	Trichur
2	Mural Paintings (16-17th Century) on the walls of the Mattancheri Palace	Mattancheri Town
3	Mural Paintings (16-17th Century) on the walls of the Siva Temple	Thiruvanchikulam
4	Mural Paintings (17th-18th Century) on the walls of the Srikoil of the Siva Temple at Chemmanthatta.	Eyyal.
5	Mural Paintings on the walls of the Srikoil of the Pallimanna Temple.	Vadakkanchery.
6	Mural Paintings on the walls of the Sriramaswami temple at Tripayar.	Tripayar.
7	Mural Paintings of the 17th-18th century on the walls of the Srikoils of the Siva Temple at Peruvanam; and wooden bracket images of a still earlier period on the Srikoils of the same shrine.	Oorakam.
8	Twenty-nine wooden bracket images on the outer walls of the Srikoil of the Vishnu temple at Katavallur and other works of art in the same shrine.	Katavallur.

PART II.

Archæological sites and remains.

I. All archæological sites and remains in Part A States and Part B States which, before the commencement of this Act, have either been declared by the Central Government to be protected areas or which have been taken possession of by the Central Government as protected areas.

II. The following Archæological sites and remains in Part B States not covered by Item No. I immediately preceding:—

Serial No.	Name of archæological site or remains	Locality
HYDERABAD STATE.		
<i>District Aurangabad.</i>		
1	Ancient Mound	Paithan
<i>District Gulbarga.</i>		
2	Pre-historic site	Evathalli
3	Do	Rajankallur

Serial No.	Name of archæological site or remains	Locality
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HYDERABAD STATE—concl'd.

District Medak.

4	Ancient Mound	Kondspur
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District Raichur.

5	Ancient Mound	Kopbal
6	Ancient Mound	Maski
7	Pre-historic Site	Benkal

District Warangal.

8	Pre-historic Site	Janampet
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MADHYA BHARAT STATE.

District Bhilsa.

1	Ancient Site	Besnagar
2	Buddhist Stupa	Gyrespur
3	Ruins of Gupta Temple	Udaygiri

District Dhar.

4	Ruins in Bhoipura	Mandu
5	Ruins on the west of Rewa Kund	Do

District Newar.

6	Excavated site	Kesrawad
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District Shivapuri.

7	Ancient site	Pawaya
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District Ujjain.

8	Ancient Mound	Ujjain
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MYSORE STATE.

District Bangalore.

1	Pre-historic site	Chikjala
2	Do	Hejjala
3	Do	Managondana-halli
4	Do	Savandurga

District Chitaldrug.

5	Pre-historic site	Brahmagiri
6	Do	Chandravalli

Serial No.	Name of archaeological site or remains	Locality.
MYSORE STATE—concl'd.		
<i>District Kolar.</i>		
7	Prehistoric site	Hunkunda
<i>District Mysore.</i>		
8	Prehistoric site	Kittur
RAJASTHAN STATE.		
<i>District Alwar.</i>		
1	Ancient remains	Pandrupol
<i>District Bandwara.</i>		
2	Ancient remains	Vithal Deva
<i>District Bharatpur.</i>		
3	Ancient Mound	Malah
4	Do	Noh
<i>District Bikaner.</i>		
5	Ancient Mounds	Badopal
6	Do	Bhadrakali
7	Do	Bhannar Theri
8	Do	Dhokal
9	Do	Manak
10	Do	Munda
11	Do	Peer Sultan
12	Do	Rang Mahal
<i>District Bundi.</i>		
13	Ancient Mounds at	Nainwa, Lakheri and Keshwarai Patan
<i>District Jaipur.</i>		
14	Ancient Mound	Abaneri
15	Do	Bundwali-Doongri
16	Do	Gariagarh (Newai)
17	Do	Mehshra
18	Do	Nagar
19	Do	Raniwas
20	Do	Sikrai
21	Devapura Barodia Mounds	Jhalai
22	Excavated site	Nagar
23	Do	Rairh (Newai)

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Serial No.	Name of archæological site or remains	Locality
RAJASTHAN STATE—concl'd.		
<i>District Jhalawar.</i>		
24	Ancient ruins	Dalsagar
		Ganga Dhar
25	Do	Dudhaliya (Dag)
<i>District Kotah.</i>		
26	Ancient ruins and structural remains	Krishnavilas
27	Ruins of Temples	Artu or Ganesh Ganj
<i>District Udaipur.</i>		
28	Ancient ruins	Kalyanpur
29	Do	Nagari
30	Do	Badoli
SAURASHTRA STATE.		
1	Ancient Mound	Darbargadh Shihor
2	Do	Intwa
3	Do	Rangpur
4	Do	Sejakpur
5	Do	Valabhipur
TRAVANCORE-COCHIN STATE.		
1	Ariyannur Umbrellas. A pre-historic site consisting of seven or more Kudaikals or umbrella stones.	Ariyannur
2	Burial cave of Chovannur	Chovannur
3	Burial caves of Eyyal	Eyyal
4	Burial cave of Kandanasseri	Kandanasseri
5	Burial cave of Kattakampal	Kattakampal
6	Burial cave of Kakkad	Kunnamkulam
7	Kudakallu Parambu. A pre-historic site consisting of 50 to 60 Kudakals or umbrella monuments.	Cheramanagad

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STATEMENT OF OBJECTS AND REASONS.

In the Constitution of India, the subject matter relatable to the Ancient Monuments Preservation Act, 1904, has been distributed as follows:—

List I, entry 67.—Ancient and historical monuments, and records, and archæological sites and remains declared by Parliament by law to be of national importance.

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List II, entry 12.—Ancient and historical monuments and records other than those declared by Parliament by law to be of national importance.

List III, entry 40.—Archæological sites and remains other than those declared by Parliament by law to be of national importance.

2. In view of entry 12 in List II, it is essential that legislation should be promoted in terms of entry 67 in list I, as otherwise the supervision and control, now exercised by the Central Government in respect of important ancient monuments, can be appropriated by the States under laws made by their Legislatures in terms of entry 12 of List II. Nor can the Central Government take necessary action for the protection and care of such monuments, sites and remains in Part B States until legislation in terms of entry 67 of List I has been enacted.

3. The present Bill, therefore, seeks to make the necessary declaration in terms of entry 67 of List I in respect of such ancient and historical monuments, and archæological sites and remains which are of national importance.

NEW DELHI;

The 16th May, 1951.

ABUL KALAM AZAD.

M. N. KAUL,
Secretary.

PART IV

Section—1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE
CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 770—Legis. 4-51-36, dated Bangalore, 17th July 1951.

Ordered that the accompanying Essential Services (Prevention of Strikes) Ordinance, 1951 (Central Ordinance No. I of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 11th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE ESSENTIAL SERVICES (PREVENTION OF STRIKES)
ORDINANCE, 1951.

No. I OF 1951.

An Ordinance to provide for the prevention of strikes in certain essential services.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Essential Services (Prevention of Strikes) Ordinance, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

2. Definitions.—In this Ordinance,—

(a) “essential service” means—

(i) any railway service;

(ii) any public road transport service carried on by means of motor vehicles;

(iii) any service or employment in a port in connection with the loading, unloading, movement or storage of goods, the pilotage or berthing of vessels, or the maintenance of navigation channels;

(iv) any postal, telegraph or telephone service ; or

(v) any service of the Central Government engaged in, or in connection with the manufacture, repair, storage, inspection or distribution of ships, aircraft, vehicles, arms, ammunition or other stores or equipment of the armed forces ; and

(b) "strike" means a total or partial cessation of work by a body of persons employed in any essential service acting in combination or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.

3. Power to prohibit strikes in essential services.—(1) The Central Government may, if satisfied that public interest so requires, by notification in the Official Gazette, prohibit strikes in any essential service specified in the notification within such area and for such period as may be so specified :

Provided that the period so specified shall not, in the first instance, exceed six months, but it may, by a like notification, be extended by any period not exceeding six months if, in the opinion of the Central Government, public interest requires such extension.

(2) Upon the issue of a notification under sub-section (1),—

(a) no person employed in any essential service to which it relates shall go or remain on strike ; and

(b) any strike declared or commenced, whether before or after the issue of the notification, by persons employed in any such essential service, shall be illegal.

4. Penalty for illegal strikes.—(If any person who commences or continues a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under sub-section (1).

5. Penalty for instigation, etc.—Any person who instigates or incites others to take part in, makes any preparation for, or otherwise acts in furtherance of, a strike which is illegal under this Ordinance shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

6. Penalty for giving financial aid to illegal strikes.—Any person who knowingly expends or applies any money in direct furtherance or support of a strike which is illegal under this Ordinance shall be punishable with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

7. Effect of provisions inconsistent with other laws.—The provisions of this Ordinance and of any notifications issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947 (XIV of 1947), or any other law for the time being in force.

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,

Secy, to the Government of India.

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NOTIFICATION.

No. L.D. 771—Legis. 4-51-37, dated Bangalore, 17th July 1951.

Ordered that the Railway Companies (Emergency Provisions) Ordinance 1951, (Central Ordinance No. II of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 14th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA

MINISTRY OF LAW

THE RAILWAY COMPANIES (EMERGENCY PROVISIONS)
ORDINANCE, 1951.

No. II OF 1951.

An Ordinance to make provision for the proper management and administration of railway companies in certain special cases.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action:

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Railway Companies (Emergency Provisions) Ordinance, 1951.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It applies to every railway company in respect of which a notified order has been issued under section 3.
- (4) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless the context otherwise requires,—

- (a) “Companies Act” means the Indian Companies Act, 1913 (VII of 1913);
- (b) “directors” means the directors appointed under section 3;
- (c) “notified order” means an order notified in the Official Gazette;
- (d) “prescribed” means prescribed by rules made under this Ordinance;
- (e) “railway company” means any company registered under the Companies Act or any law repealed thereby for the purpose of making and working or making or working a railway whether alone or in conjunction with other purposes.

3. Power of Central Government to apply Ordinance to any railway company and to appoint directors thereof.—(2) Where the Central Government is of opinion that a situation has arisen in the affairs of a railway company which—

(a) has prejudicially affected the convenience of persons using the railway administered by the railway company, or

(b) has caused serious dislocation in any trade or industry using the railway, or

(c) has caused serious unemployment amongst a section of the community, the Central Government may, by notified order, apply the provisions of this Ordinance to the railway company and appoint as many persons as it thinks fit to be directors of the railway company for the purpose of taking over its management and administration.

(2) The power to appoint directors under this section includes the power to appoint any individual, firm or company to be the managing agent of the railway company on such terms and conditions as to the Central Government may seem fit.

4. Effect of notified order appointing directors or managing agents.—On the issue of a notified order under section 3,—

(a) all persons holding office as directors of the railway company immediately before the issue of the notified order shall be deemed to have vacated their offices as such;

(b) any contract of management between the railway company and any managing agent thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

(c) the managing agent, if any, appointed under this Ordinance shall be deemed to have been duly appointed in pursuance of the Companies Act and the memorandum and articles of association of the railway company, and the provisions of the Companies Act and of the memorandum and articles shall, subject to the other provisions contained in this Ordinance, apply accordingly, but no such managing agent shall be removed from office except with the previous consent of the Central Government;

(d) the directors shall take such steps as may be necessary to take into their custody or under their control all the property, effects and actionable claims to which the railway company is or appears to be, entitled, and all the property and effects of the railway company shall be deemed to be in the custody of the directors as from the date of the notified order;

(e) the directors shall be for all purposes the directors of the railway company duly constituted under the Companies Act, and shall alone be entitled to exercise all the powers of the directors of the railway company, whether such powers are derived from the Companies Act or from the memorandum or articles of association of the railway company or from any other source.

5. Powers and duties of directors.—(1) Subject to the control of the Central Government, the directors shall take such steps as may be necessary for the purpose of efficiently managing the business of the railway company and, in particular, the directors shall have power, notwithstanding anything contained in the Companies Act or in the memorandum or articles of association of the railway company,—

(a) to choose one of their members to be the chairman, and to delegate to him or to any one or more of the directors all or any of their powers;

(b) with the previous approval of the Central Government and subject to such conditions as that Government may think fit to impose, to raise funds in such manner and offer such security therefor as they think fit;

(c) to carry out such repairs as may be necessary in respect of any machinery, rolling stock, buildings, works or other property in their custody;

(d) to do all acts necessary for making, maintaining, altering or repairing and using the railway of the railway company ;

(e) to employ such persons as may be necessary for enabling them to efficiently discharge their duties, and define the conditions of service of such employees.

(2) The directors may, with the previous sanction of the Central Government, cancel or vary, either unconditionally or subject to such conditions as they think fit to impose, any contract or agreement entered into between the railway company and any other person at any time before the issue of the notified order under section 3, if the directors are satisfied that such contract or agreement is detrimental to the interests of the railway company.

6. Statement of affairs to be made to directors.—(1) On the issue of a notified order under section 3, there shall be made out and submitted to the directors, a statement as to the affairs of the railway company, verified by affidavit and containing the following particulars, namely :—

(a) the assets of the railway company, stating separately the cash balance in hand and at the bank, if any ;

(b) the debts and liabilities ;

(c) the names, residences and occupations of the directors and managing agents, stating separately the amount of secured debts and unsecured debts and, in the case of secured debts, the particulars of the securities, their value and the dates when they were given ;

(d) the debts due to the railway company and the names, residences and occupations of the persons from whom they are due and the amount likely to be realised therefrom ;

(e) such other particulars as may be prescribed.

(2) The statement shall be submitted by one or more of the persons holding office as directors of the railway company immediately before the issue of the notified order under section 3 or by the secretary, manager or other chief officer of the railway company holding office as such before the issue of the notified order as the directors may require in each case, and the statement shall be submitted within such time as may be so required.

(3) If any person, without any reasonable excuse, knowingly and wilfully makes default in complying with the requirements of this section, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

7. Statements by beneficial owners of shares of railway company.—Any person who has any interest in any share of the railway company which stands in the name of another person in the register of shareholders of the railway company shall within such period as may be specified by the Central Government by notified order make a declaration in such form as may be prescribed (which shall be countersigned by the person in whose name the share is registered) to the railway company, declaring his interest in the share, and notwithstanding anything contained in any other law or in any contract to the contrary, a person who fails to make a declaration as aforesaid in respect of any share shall be deemed to have no right or title whatsoever in or to that share :—

Provided that nothing in this section shall affect the right of any person who has an interest in any such share to establish in a court his right thereto if the person in whose name the share is registered refuses to sign that declaration as required by this section.

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8. Power of directors to institute proceedings against past directors, etc., for damages.—(1) The directors may, if they are satisfied that it is necessary in the interest of the railway company or in the public interest so to do, institute in the name of the railway company such proceedings as they think fit for the recovery of damages for any fraud, misfeasance or other misconduct in connection with the management of the affairs of the railway company committed by any person before the issue of the notified order under section 3 or for the recovery of any property of the railway company which has been misapplied or wrongfully retained by any person.

(2) No director shall be personally liable for any costs or expenses incurred in connection with any proceedings instituted by virtue of this section.

9. Penalties.—If any person wilfully destroys or fails to deliver to the directors when required any books of account, registers or any other documents in his custody relating to the business of the railway company or retains any property of the railway company, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. Filling up of vacancies among directors.—(1) Casual vacancies occurring in the body of directors, whether caused by death, resignation or otherwise, shall be filled by nomination by the Central Government.

(2) No act of the directors shall be called in question on the ground merely of the existence of any vacancy among the directors or any defect in the appointment of any of them.

11. No right to compensation for termination of contract of managing agent or any other contract.—(1) Notwithstanding anything contained in the Companies Act or in any other law for the time being in force, no managing agent shall be entitled to any compensation for the premature termination under this Ordinance of any contract of management entered into by him with the railway company, and no person shall be entitled to compensation in respect of the cancellation or variation under this Ordinance of any other contract or agreement.

(2) Nothing contained in sub-section (1) shall affect the right of any such managing agent or person to recover from the railway company moneys recoverable otherwise than by way of such compensation.

12. Cancellation of appointment of directors.—(1) If, at any time, it appears to the Central Government that the purpose of the notified order appointing the directors has been fulfilled or that for any other reason, it is unnecessary that the notified order should remain in force, the Central Government may, by notified order, cancel the appointment of directors made under this Ordinance.

(2) On the cancellation of any such appointment as is referred to in sub-section (1), the Central Government may—

(a) direct that all the property, effects and actionable claims of the railway company shall revert in the persons in whom they were vested before the issue of the notified order under section 3; or

(b) reconstitute by fresh appointment a new body of persons to take charge of the management and administration of the whole affairs of the railway company; whether as directors or managers or in any other capacity:

Provided that no such fresh appointment shall be made except in pursuance of a resolution passed by the shareholders of the railway company at a meeting called for the purpose by the directors appointed under section 3.

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(3) The Central Government may, at any time before the issue of the notified order under sub-section (1) take such action as may be necessary under clause (b) of sub-section (2) for the purpose of making any fresh appointments.

13. Application of the Companies Act.—(1) Notwithstanding anything contained in the Companies Act or in the memorandum or articles of association of the railway company, but subject to the other provisions contained in this Ordinance,—

- (a) it shall not be lawful for the shareholders of the railway company or any other person to nominate or appoint any person to be a director of the railway company;
- (b) no resolution passed at any meeting of the shareholders of the railway company shall be given effect to unless approved by the Central Government;
- (c) no proceeding for the winding-up of the railway company or for the appointment of a receiver in respect thereof shall lie in any court, unless by or with the sanction of the Central Government.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Ordinance and subject to such exceptions, restrictions and limitations as the Central Government may by notified order specify, the Companies Act shall continue to apply to the railway company in the same manner as it applied thereto before the issue of the notified order under section 3.

14. Effect of Ordinance on other laws.—The provisions of this Ordinance and of any notified order made thereunder shall have effect notwithstanding anything inconsistent therewith in any other law for the time being in force or in the memorandum or articles of association of the railway company or in any other instrument having effect by virtue of any law other than this Ordinance, but save as aforesaid the provisions of this Ordinance shall be in addition to, and not in derogation of, any other law for the time being applicable to the railway company.

15. Directors to be public servants.—Every director appointed under section 3 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

16. Delegation of powers.—The Central Government may, by notified order, direct that all or any of the powers exercisable by it under this Ordinance, except the powers given to it under section 3 to apply the provisions of this Ordinance to any railway company, or the powers given to it under section 12 or section 18 may be exercised by any State Government, and where any powers are so delegated, they shall be exercised subject to such directions as the Central Government may issue from time to time.

17. Protection of action taken under Ordinance.—(1) No suit, prosecution or other legal proceeding shall lie against any director in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any State Government or any director for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Ordinance.

18. Power of Central Government to acquire railway of railway company.—

- (1) Where under any instrument, having effect by virtue of any law other than this Ordinance or by virtue of an agreement arrived at between the parties, provision is made for the purchase by a person or local authority or the State Government of a railway which is the property of a railway company on payment of the value thereof

calculated in the manner and subject to the conditions specified in the instrument, the Central Government shall also have the same right to purchase the railway on the same terms and subject to the same conditions as the person, local authority or the State Government has under the instrument.

(2) If in respect of any railway, the Central Government exercises its right of purchase under this section, any person, local authority or State Government, in whom or in which a similar right is vested under the instrument, shall be deemed to have become disentitled to exercise the same.

19. Power to make rules.—(1) The Central Government may, by notified order make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, any rules made under sub-section (1) may provide for—

(a) the manner in which or the conditions subject to which the directors or managing agents of a railway company may exercise their powers under this Ordinance;

(b) the additional particulars which a statement under section 6 should contain;

(c) the form in which a declaration under section 7 may be made;

(d) the manner in which books of account shall be maintained by the directors and audited;

(e) the submission of specified or periodical returns and reports by the directors to any specified authority in connection with the affairs of the railway company.

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,

Secy. to the Government of India.

NOTIFICATION.

No. L.D. 794 -Legis. 4-51-33, dated Bangalore, 21st July 1951.

Ordered that the Indian Merchant Shipping (Amendment) Act, 1951 (Central Act No. XLII of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 17th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received Assent on 16th July 1951.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

THE INDIAN MERCHANT SHIPPING (AMENDMENT)
ACT, 1951 (XLII OF 1951).

AN

ACT

further to amend the Indian Merchant Shipping Act, 1923

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Indian Merchant Shipping (Amendment) Act, 1951.

2. Insertion of new sections 26A and 26B in Act XXI of 1923.—In the Indian Merchant Shipping Act, 1923, under the heading "*Engagement of Seamen*" and before section 27, the following sections shall be inserted, namely :—

"26A. *Medical examination of seamen.*—(1) Subject to the provisions of any rules made under sub-section (3), no person shall engage or carry to sea any seaman to work in any capacity in any ship unless the seaman is in possession of a certificate in the prescribed form granted by the prescribed authority to the effect that he is physically fit to be employed in that capacity.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and, in

particular and without prejudice to the generality of such power, any rules so made may provide for—

- (a) the standard of physical fitness required of seamen, and different standards may be laid down in different cases or for different classes of seamen, having regard to the age of the seamen to be examined or the nature of the duties to be performed by them ;
- (b) the nature of the medical examination of seamen, the authorities by which the examination shall be conducted and the fees payable therefor ;
- (c) the form and contents of medical certificates and the period of their validity ;
- (d) the re-examination by such medical authority as may be specified of persons who have been refused medical certificates of physical fitness in the first instance and the fees payable for such re-examination ;
- (e) the circumstances in which or the conditions subject to which any seaman or class of seamen may be exempted from the operation of sub-section (1).

6B. *Qualifications for seamen.*—(1) From such date as may be fixed in this behalf by the Central Government by notification in the Official Gazette, no seaman shall be engaged or carried to sea to work in any capacity in any ship unless he possesses the prescribed qualifications.

(2) If any person engages or carries to sea any seaman in contravention of sub-section (1), he shall, for each seaman in respect of whom the offence is committed, be liable to a fine which may extend to one hundred rupees.

(3) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this section, and, in particular and without prejudice to the generality of such power, any rules so made may provide for—

- (a) the courses of training to be pursued, or
- (b) the vocational standards to be attained, or
- (c) the tests to be passed,

by seamen generally or by any class of seamen in particular.

K. V. K. SUNDARAM,
Secretary to Government of India.

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PART IV

Section I-C

RULES, ORDERS AND NOTIFICATIONS, UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 238—Legis. 6-51-2, dated Bangalore, 9th May 1951.

Ordered that the accompanying Notification No. S.R.O. 543, dated the 12th April 1951 of the Ministry of Home Affairs under the Code of Criminal Procedure, 1898, published in the *Gazette of India*, Part II, Section 3, dated the 21st April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,
N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government, Law Department.*

MINISTRY OF HOME AFFAIRS.

New Delhi, the 12th April 1951.

S.R.O. 543.—In pursuance of sub-section (3) of section 504 of the Code of Criminal Procedure, 1898 (V of 1898), the Central Government hereby directs that the following amendment shall be made to the Schedule annexed to the Notification of the Government of India, in the Ministry of Home Affairs No. 4/8/48-Judicial, dated the 8th April 1950, namely :

In column 2 against the entry "The United Kingdom" for the words "The Supreme Court of Judicature for the United Kingdom", the following shall be substituted :—

- "(a) The Supreme Court of Judicature at the Royal Courts of Justice, London, in case the witness resides in England, or
- (b) The Supreme Court of Northern Ireland, in case the witness resides in Northern Ireland, or
- (c) The Court of Session, Scotland, in case the witness resides in Scotland."

[No. 4/8/48-Judicial.]

E. C. GAYNOR, *Dy. Secy.*

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NOTIFICATION.

No. L.D. 239—Legis. 6-51-3, dated Bangalore, the 9th May 1951.

Ordered that the accompanying Notification No. S.R.O. 553, dated the 12th April 1951 of the Ministry of Food and Agriculture under the Destructive Insects and Pests Act, 1914, published in the *Gazette of India*, Part II, Section 3, dated the 21st April 1951, be republished in the *Mysore Gazette*, for general information

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government, Law Department.*

MINISTRY OF FOOD AND AGRICULTURE

(Agriculture)

New Delhi, the 12th April 1951.

S.R.O. 553.—In exercise of the powers conferred by sub-section (1) of section 3 of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the order published with the Notification of the Government of India in the late Education, Health and Lands Department, No. F. 16-5(1)—43-A, dated the 10th May 1943, namely:—

In the said Order for the words "British India" the word "India" shall be substituted.

[No. F. 6-10—51-Dte.I.]

P. M. DAS GUPTA, *Dy. Secy.*

NOTIFICATION.

No. L.D. 240—Legis. 5-51-3, dated Bangalore, 9th May 1951.

Ordered that the accompanying Notification No. S.R.O. 550, dated the 21st April 1951 of the Ministry of Natural Resources and Scientific Research amending the Mineral Concession Rules, published

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in the *Gazette of India*, Part II, Section 3, dated the 21st April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government, Law Department.*

MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH.

New Delhi, the 21st April 1951.

S.R.O. 550.—In exercise of the powers conferred by Section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby directs that the following amendment shall be made in the Mineral Concession Rules, namely:—

In the said Rules—

(1) After sub-rule (3) of rule 26, the following sub-rule shall be added:—

“(4) In case the State Government wants to work any mineral specified in schedule IV departmentally it shall obtain the prior approval of the following words shall be added:—

(2) In rule 45 after the words “Central Government” in the second proviso the following words shall be added:—

“and no mining operation for any mineral specified in that schedule shall start except with the prior approval of the Central Government.”

[No. M. II-159(5).]

T. GONSALVES, *Dy. Secy.*

NOTIFICATION.

No. L. D. 639—Legis. 5-51-17, dated Bangalore, 27th June 1951.

Ordered that the accompanying Notification No. S.R.O. 846, dated the 24th May 1951 of the Ministry of Health amending the Indian Aircraft (Public Health) Rules 1946, published in the *Gazette of India*, Part II, Section 3, dated the 2nd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

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GOVERNMENT OF INDIA.

MINISTRY OF HEALTH.

New Delhi, the 24th May 1951.

S.R.O. 846.—In exercise of the powers conferred by Section 8A of the Indian Aircraft Act, 1934 (XXII of 1934), the Central Government hereby directs that the following further amendments shall be made in the Indian Aircraft (Public Health) Rules, 1946, the same having been previously published as required by Section 14 of the said Act, namely :—

In the said Rules—

- (1) In sub-rule (4) of rule 21 and in the proviso to sub-rule (2) of rule 22 for the words "six days" the words "seven days" shall be substituted.
- (2) For rule 38 the following rule shall be substituted, namely :—

"38. (1) No person shall be permitted by the Health Officer to embark on an aircraft with a view to proceeding by air to the Hedjaz unless such person produces the medical certificates referred to in sub-rule (2), signed by persons who, in the opinion of the Health Officer conducting the medical examination under rule 33, are duly qualified to grant such certificates.

- (2) The certificates required by sub-rule (1) are :—

- (a) a certificate showing that such person has been inoculated against Cholera with two injections of a vaccine of known potency, not more than six months and not less than seven days (the period to be computed from the date of the second injection), prior to the date of the medical examination, the interval between the two injections being seven days; and
- (b) a certificate showing that such person has been vaccinated against Small-pox not more than three years and not less than fourteen days prior to the date of the medical examination :

Provided that the Health Officer making the medical examination may dispense with the certificate of vaccination if in his opinion the person has marks of a previous attack of Small-pox."

[No. F. 5-9/50-PH(II)(PHI).]

P. S. DORASWAMI, Under Secy.

NOTIFICATION.

No. L.D. 640—Legis. 5-51-16, dated, Bangalore, 27th June 1951.

Ordered that the accompanying Notification No. S.R.O. 841, dated the 28th May 1951 of the Ministry of Information and Broadcasting amending the Cinematograph (Censorship) Rules, 1915, published in the *Gazette of India*, Part II, Section 3, dated the 22nd

June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF INFORMATION AND BROADCASTING.

New Delhi, the 28th May 1951.

S.R.O. 841.—In exercise of the powers conferred by sub-sections (1) and (2) of Section 9 of the Cinematograph Act, 1918 (II of 1918), the Central Government hereby directs that the following further amendments shall be made in the Cinematograph (Censorship) Rules, 1950, namely :—

In the said Rules—

1. To clause (b) of sub-rule (3) of rule 22, the following proviso shall be added, namely :—

“Provided that, in the case of a film in a language other than that specified in Form I of the Schedule, the Regional Officer may direct the applicant to furnish also four typed or printed copies of the full text of the dialogue, speeches or commentary”.

2. For sub-rule (2) of rule 24, the following sub-rule shall be substituted, namely :—

“(2) The Examining Committee shall consist of—

(a) in the case of a newsreel, documentary short, cartoon or a film predominantly educational, a member of the Advisory Panel and the Regional Officer or Assistant Regional Officer; and

(b) in the case of any other film, at least two members of the Advisory Panel and the Regional Officer or Assistant Regional Officer :

Provided that if the Regional Officer or the Assistant Regional Officer is unavoidably unable to attend the examination of a film, the Examining Committee shall consist of two members of the Advisory Panel in a case falling under clause (a) and at least three members of the Advisory Panel in a case falling under clause (b).”

3. In sub-rule (2) of rule 28, the words “ of the Board nominated by the Chairman ” shall be added at the end.

4. To rule 29, the following ‘ Explanation ’ shall be added, namely :—

“Explanation: Reasonable wear and tear in the normal course of handling or projecting a film shall not be deemed to be alteration of the film within the meaning of this rule.”

5. In rule 32—

(i) to sub-rule (2), the following proviso shall be added namely:—

“Provided that the Regional Officer may remit the translation fee in any case where he accepts a translation of the dialogue, songs or commentary of film from the applicant duly verified by the person who made the translation and by the applicant”.

(ii) for sub-rule (3), the following sub-rule shall be substituted, namely:—

“(3) The Board may remit the fee for examination of a film—

(a) entirely, in the event of the application for a certificate being withdrawn before the film is examined; and

(b) in whole or in part, where a film is certified as being predominantly educational under sub-rule (4) of rule 31”.

6. In the Schedule, in Form I, in item (iii) of clause (i) after the word “Kannada”, the word “Malayalam” shall be inserted.

(No. 35/23/51-F(C.C.R.A/2).]

C. B. RAO, Dy. Secy.

NOTIFICATION.

No. L.D. 641—Legis. 6-51-15, dated Bangalore, 27th June 1951.

Ordered that the accompanying Notification No. S.R.O. 844, dated the 25th May 1951 of the Ministry of Food and Agriculture under the Agriculture Produce (Grading and Marking) Act, 1937, published in the *Gazette of India*, Part II, Section 3, dated the 2nd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF FOOD AND AGRICULTURE.

New Delhi, the 25th May 1951.

S.R.O. 844.—In exercise of the powers conferred by Section 6 of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937), the Central Government hereby declares that the provisions of the said Act shall apply to ‘Arecanuts’.

[No. F. 4-4/51-DTE. II (M).]

A. G. MENON, Dy. Secy.

NOTIFICATION.

No. L.D. 642—Legis. 6-51-14, dated Bangalore, 27th June 1951.

Ordered that the accompanying Notification No. S.R.O. 809, dated the 28th May 1951 of the Ministry of Law under the Code of Civil Procedure regarding signing and verification of plaints or written statements published in the *Gazette of India*, Part II, Section 3, dated the 2nd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

New Delhi, the 28th May 1951.

S.R.O. 809.—In exercise of the powers conferred by rule 1, read with clause (a) of rule 8B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), the Central Government is pleased to direct that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Law No. S.R.O. 512, dated the 9th September 1950, relating to the authorisation of officers to sign and verify plaints or written statements in any suit by or against the Central Government, namely :—

In the Part VIII of the Schedule to the said Notification, for the words "Regional Food Commissioners", the words and brackets "Regional Directors (Food)" shall be substituted.

[No. F. 33-1/51-L.]

SHRI GOPAL SINGH, Dy. Secy.

NOTIFICATION.

No. L.D. 745—Legis. 5-51-19, dated Bangalore, 10th July 1951.

Ordered that the accompanying Notification No. S.R.O. 941, dated the 14th June 1951, of the Ministry of Works, Production and Supply, amending the Petroleum Rules, 1937, published in the *Gazette of India*, Part II, Section 3, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 14th June 1951.

S.R.O. 941.—In exercise of the powers conferred by Section 4, sub-section (2) of Section 5, sub-section (2) of Section 14, Sections 21 and 22, and sub-Section (1) of Section 29 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby directs that with effect from the 1st July 1951, the following further amendment shall be made in the Petroleum Rules, 1937, the same having been previously published as required by sub-section (2) of Section 29 of the said Act, namely :—

In the said Rules—

- (1) In sub-rule (2) of rule 1, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.
- (2) In rule 2A—
 - (i) after the words "merged territories" the words and letter "or any Part B State" shall be inserted.
 - (ii) after the words "merged territory" the words and letter "or Part B State" shall be inserted.
- (3) In the proviso to sub-rule (2) of rule 115, after the words "merged territory" in words and letter "or a Part B State" shall be inserted.

[No. M-128 (9) (i).]

N. P. DUBE *Under Secy.*

NOTIFICATION.

No. L.D. 746—Legis. 5-51-20, dated Bangalore, 10th July 1951.

Ordered that the accompanying Notification No. S.R.O. 942, dated the 14th June 1951, of the Ministry of Works, Production and Supply, amending the Gas Cylinder Rules, 1940, published in the *Gazette of India*, Part II, Section 3, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 14th June 1951.

S.R.O. 942.—In exercise of the powers conferred by Sections 5 and 7 of the Indian Explosives Act, 1884 (IV of 1884), the Central Government hereby directs

that with effect from the 1st July 1951, the following further amendment shall be made in the Gas Cylinder Rules, 1940, the same having been previously published as required by Section 18 of the said Act, namely :—

In the said Rules—

In sub-rule (2) of rule 1, the words and letter "except Part B States" shall be omitted.

[No. M-128 (9)(ii).]

N. P. DUBE, *Under Secy.*

NOTIFICATION.

No. L.D. 747—Legis. 5-51-21, dated Bangalore, 10th July 1951.

Ordered that the accompanying Notification No. S.R.O. 943, dated the 14th June 1951, of the Ministry of Works, Production and Supply, amending the Cinematograph Film Rules, 1948, published in the *Gazette of India*, Part II, Section 3, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 14th June 1951.

S.R.O. 943.—In exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby directs that with effect from the 1st July 1951, the following further amendment shall be made in the Cinematograph Film Rules, 1948, the same having been previously published, as required by sub-section (2) of Section 29 of the said Act, namely :—

In the said Rules—

(1) in sub-rule (2) of rule 1, for the words and letter "Part B States" the words "the State of Jammu and Kashmir" shall be substituted.

(2) In rule 2A—

(i) after the words "merged territories" the words and letter "or any Part B State" shall be inserted.

(ii) after the words "merged territory" the words and letter "or Part B State" shall be inserted.

(3) In the proviso to sub-rule (ii) of rule 33 after the words "merged territory" the words and letter "or a Part B State" shall be inserted.

[No. M-128(9)(iii).]

N. P. DUBE, *Under Secy.*

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NOTIFICATION.

No. L.D. 748—Legis. 5-51-22 dated Bangalore, 10th July 1951.

Ordered that, the accompanying Notification No. S.R.O. 944, dated the 14th June 1951 of the Ministry of Works, Production and Supply, amending the Carbide of Calcium Rules, 1937, published in the *Gazette of India*, Part II, Section 3, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 14th June 1951.

S.R.O. 944.—In exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Petroleum Act, 1934 (XXX of 1934), as applied to Carbide of Calcium by the Notification of the Government of India in the late Department of Industries and Labour No. M-826(i), dated the 15th October 1946, the Central Government hereby directs that with effect from the 1st July 1951, the following further amendment shall be made in the Carbide of Calcium Rules, 1937, the same having been previously published as required by sub-section (2) of Section 29 of the said Act, namely:—

In the said Rules—

- (1) In sub-rule (ii) of rule 1, for the words and letter "Part B States", the words "the State of Jammu and Kashmir" shall be substituted.
- (2) In rule 2A—
 - (i) after the words "merged territories", the words and letter "or any Part B State" shall be inserted.
 - (ii) after the words "merged territory", the words and letter "or Part B State" shall be inserted.
- (3) In the proviso to sub-rule (2) of rule 39 after the words "merged territory" the words and letter "or a Part B State" shall be inserted.

[No. M-128(9)(iv).]

N. P. DUBE, *Under Secy.*

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NOTIFICATION.

No. L.D. 749—Legis. 5-51-23, dated Bangalore, 10th July 1951.

Ordered that the accompanying Notification No. S.R.O. 945, dated the 14th June 1951 of the Ministry of Works, Production and Supply, amending the Explosive Rules, 1940, published in the *Gazette of India*, Part II, Section 3, dated the 23rd June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 14th June 1951.

S.R.O. 945.—In exercise of the powers conferred by Sections 5 and 7 of the Indian Explosives Act, 1884 (IV of 1884), the Central Government hereby directs that with effect from the 1st July 1951, the following further amendment shall be made in the Explosive Rules, 1940, the same having been previously published as required by Section 18 of the said Act, namely:—

In the said Rules—

- (1) In sub-rule (2) of rule 1, the words and letter "except Part B States" shall be omitted.
- (2) In rule 2A, after the words "merged territories" and "merged territory" the words "or a Part B State" shall be inserted.

[No. M-128(9)(v).]

N. P. DUBE, *Under Secy.*

NOTIFICATION.

No. L.D. 780—Legis. 6-51-16, dated Bangalore, 19th July 1951.

Ordered that Notification No. S.R.O. 961, dated 25th June 1951 of the Ministry of Home Affairs under the Jallianwala Bagh National Memorial Act, 1951, nominating the Trustees of the Memorial, published in the *Gazette of India*, Part II, Section 3, dated the

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30th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF HOME AFFAIRS.

New Delhi, the 25th June 1951.

S.R.O. 961.—In pursuance of the provisions of clause (g) of sub-section (i) of Section 4 of the Jallianwala Bagh National Memorial Act, 1951 (XXV of 1951), the Central Government hereby nominates—

- (1) Rajkumari Amrit Kaur,
- (2) Bakshi Tek Chand, and
- (3) Giani Gurmukh Singh Musafir,

as trustees of the Jallianwala Bagh National Memorial.

[No. 26/1/51-Judl.]

R. N. PHILIPS, Dy. Secy.

NOTIFICATION.

No. L.D. 781—Legis. 5-51-24, dated Bangalore, 19th July 1951.

Ordered that Notification No. S.R.O. 977, dated the 26th June 1951 of the Ministry of Finance (Revenue Division) amending the Part B States (Taxation Concessions) Order, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 30th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.
MINISTRY OF FINANCE (REVENUE DIVISION).

INCOME-TAX.

New Delhi, the 26th June 1951.

S.R.O. 977.—In exercise of the powers conferred by Section 60-A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government hereby makes the following further amendments to the Part B States (Taxation Concessions) Order, 1950, namely :—

In the said order—

(1) In paragraph 6, after the words and figures "31st day of March 1951" the words and figures "or on the 31st day of March 1952, as the case may be", shall be *inserted*;

(2) In paragraph 7, after the words and figures "31st day of March 1951" the words and figures "or on the 31st day of March 1952, as the case may be", shall be *inserted*;

(3) In sub-paragraph (2) of paragraph 11, after the words and figures "1st day of April 1950" the words and figures "or on the 1st day of April 1951, as the case may be", shall be *inserted*.

[No. 56.]

PYARE LAL, Joint Secy.

NOTIFICATION.

No. L.D. 782—Legis. 5-51-25, dated Bangalore, 19th July 1951.

Ordered that Notification No. S.R.O. 983, dated the 23rd June 1951 of the Ministry of Food and Agriculture (Agriculture) amending the rules issued by the Government of India in the late Department of Education, Health and Lands on 20th November 1940 under the Destructive Insects and Pests Act, 1914, published in the *Gazette of India*, Part II, Section 3, dated the 30th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.
MINISTRY OF FOOD AND AGRICULTURE.
(AGRICULTURE).

New Delhi, the 23rd June 1951.

S.R.O. 983.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in

the rules published with the Notification of the Government of India in the late Department of Education, Health and Lands No. F. 50-13(21)/39-A, dated the 20th November 1940, namely :—

In the said rules—

(1) In the preamble for the words "British India" the word "India" shall be substituted.

(2) for the names of the roads under clause (b) of Rule 3, the following shall be substituted, namely :—

- (i) *Kashmir*
via Srinagar and Jammu to Pathankot.
- (ii) *Chamba*
via Dalhousie, Pathankot.
- (iii) *Mandi*
 - 1. For Kulu Valley and Inner and Outer Seraj via Oot. to Kulu.
 - 2. For the plains via Baijnath and Palampur.
- (iv) *Suket*
 - 1. via Bilaspur Road to Rupar.
 - 2. via Mandi and Baijnath to Palampur.
- (v) *Balsan*
via Fagu and Simla.
- (vi) *Jubbal*
via Theog to Simla.
- (vii) *Koti*
via Koti-Simla.
- (viii) *Kumarsain*
via Kotgarh to Simla.
via Fagu to Simla.
- (ix) *Bhagat*
 - 1. via Kalka and Ambala.
 - 2. via Simla.
- (x) *Bashahr*
via Kotgarh to Simla.
- (xi) *Hill tracts of Patiala State*
 - 1. via Simla.
 - 2. via Kalka-Ambala.
- (xii) Bangalore-Madras Road.
- (xiii) Mysore-Sat Yamangalam Road.
- (xiv) Mysore-Tellicherry Road (Manatody).
- (xv) Mysore-Cudalore Road.
- (xvi) Mysore-Cannanore Road (via Virarajendrapet).

[No. F. 6-15/50-PPS.]

P. M. DAS GUPTA, Dy. Secy.

NOTIFICATION.

No. L.D. 783—Legis. 5-51-26, dated Bangalore, 19th July 1951.

Ordered that Notification No. S.R.O. 1004, dated 26th June 1951 of the Ministry of Labour prescribing Forms X and XI under the Minimum Wages (Central) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 30th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

New Delhi, the 26th June 1951.

S. R. O. 1004.—In pursuance of sub-rules (1) and (2) of rule 26 of the Minimum Wages (Central) Rules, 1950, the Central Government hereby notifies Forms X and XI specified in the Schedule hereto annexed, as the forms in which the Register of Wages and the Wage Slips mentioned in the said sub-rules shall respectively be kept or issued, as the case may be.

SCHEDULE

Form X.

Register of Wages [Rule 26 (1).]

Name of the Establishment.....

Place

Name of the worker	Wage period	Minimum rates of wages payable	Dates on which overtime worked	Gross wages payable	Deductions, if any	Actual wages paid	Signature or thumb impression of the employee
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Form XI.

Wage Slips [Rule 26 (2).]

Name of the Establishment.....

Place

Name of the worker	Wage period	Minimum rates of wages payable	Dates on which overtime worked	Gross wages payable	Deductions, if any	Actual wages paid	Signature of the employee
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[No. LWI 24 (16) (i).]

P. N. SHARMA, Under Secy.

NOTIFICATION.

No. L.D. 788—Legis: 5-51-27, dated Bangalore, 19th July 1951.

Ordered that Notification No. S.R.O. 1025, dated the 27th June 1951 of the Ministry of Food and Agriculture amending the Notification of the Government of India in the late Department of Education, Health and Lands No. F. 320-35-A, dated 20th July 1936 (under the Destructive Insects and Pests Act, 1914), published in the *Gazette of India*, Part II, Section 3, dated the 7th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

S.R.O. 1025.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the Order published with the Notification of the Government of India in the late Department of Education, Health and Lands Department No. F. 320/35-A, dated 20th July, 1936, namely :—

In the said Order—

- (1) For the words "British India" wherever they occur, the word "India" shall be substituted.
- (2) In clause (iii) of paragraph 1 the word "Karachi" shall be omitted.
- (3) The second and third provisos to paragraph 4 shall be omitted.
- (4) In paragraph 10 the word "Presidency" after Madras shall be deleted.
- (5) In paragraph 12 for the words "Director of Agriculture, Madras Presidency" the words "Director of Research, Indian Coffee Board, Bangalore" shall be substituted.
- (6) In paragraph 14—
 - (a) in clause (1) for the word "Kathiawar" the word "Saurashtra" shall be substituted.
 - (b) in clause (2) after the words "carbon bisulphate" the words "Or Methyl Bromide" shall be added.
 - (c) in the proviso for the words "Governor-General-in-Council" the words "Central Government" shall be substituted.
- (7) In paragraph 15—
 - (a) clause (1) shall be omitted.
 - (b) in clause (2) the words "not being in Aden" shall be omitted.
 - (c) clauses (2) and (3) shall be renumbered as clauses (1) and (2), respectively.

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(8) In the First Schedule—

- (a) against Burma for the word "Department" the word "Ministry" shall be substituted.
 - (b) against Ceylon for the word "Department" the word "Ministry" shall be substituted.
 - (c) the words and brackets "(including Formosa)" after Japan shall be omitted.
 - (d) for the words "Malay Peninsula" and the entry against it the following shall be substituted namely:—
"Malaya—Department of Agriculture, Federation of Malaya, Kuala Lumpur."
 - (e) for the words "Netherlands Indies" and the entry against it the following shall be substituted namely:—
"Republic of Indonesia—Inspector, Institute for Plant Diseases of the Department of Economic Affairs."
 - (f) against "Phillippine Islands" for the word "Bureau" the word "Department" shall be substituted.
 - (g) for the word "Tunis" the "Tunsia" shall be substituted.
- (9) For the entries under the Second Schedule the following entries shall be substituted namely:—

"The Director, Indian Agricultural Research Institute, New Delhi.

The Secretary, Indian Central Cotton Committee, Bombay.

The Director of Agriculture, Madras State, Madras.

The Director of Agriculture, Bombay State, Bombay.

The Director of Agriculture, Uttar Pradesh, Lucknow.

The Director of Agriculture, Madhya Pradesh, Nagpur.

The Director of Agriculture, West Bengal, Calcutta.

The Director of Agriculture, Bihar, Sabour.

The Director of Agriculture, Assam, Shillong.

The Director of Agriculture, Hyderabad State, Hyderabad.

The Director of Agriculture, Mysore State, Bangalore.

The Director of Institute of Plant Industry, Indore.

The Director of Agriculture, Madhya Bharat, Gwalior.

The Director of Agriculture, State of Saurashtra, Rajkot.

The Director of Agriculture, Travancore-Cochin.

The President of the Chamber of Agriculture, Pondicherry."

(10) In the Fifth Schedule—

- (a) for entries (ii) and (iii) the following shall be substituted:—
" (ii) Director of Agriculture, Travancore-Cochin and entries (iv) and (v) shall be renumbered as (iii) and (iv) respectively.
- (b) in entry (iii) as so renumbered the word "Presidency" after Madras shall be omitted.
- (c) entry (vi) shall be omitted.

[No. F. 6-7/50-PPS.]

P. M. DAS GUPTA, Dy. Secy

PART IV 63

Section 2-B.

**MYSORE ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE RAJPRAMUKH.**

NOTIFICATION.

No. L.D. 786—L. A. 59-50-3, dated Bangalore, the 19th July 1951.

In exercise of the powers conferred by Article 186 read with Clause (8) of Article 238 of the Constitution of India, His Highness the Rajpramukh of Mysore is pleased to direct that in Notification No. L.D. 1944—L.A. 59-50-2, dated 27th September 1950, for the words "to Delhi" wherever they occur the words "outside the State" shall be substituted.

JAYA CHAMARAJA WADIYAR,

Maharaja of Mysore.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

PART IV

Section 2-C

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.**

NOTIFICATION.

No. 3675—Ml. 97-51-3, dated Bangalore, the 17th July 1951.

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Amusements Tax Act, 1932 (Mysore Act VIII of 1932), His Highness the Maharaja of Mysore is pleased to direct that the said Act shall come into force in the Municipal limits of Harihar from the first day of August 1951.

By Order of His Highness the Maharaja,

K. BALASUBRAMANYAM,

Secretary to Government,

Local Self-Government Department.

NOTIFICATION.

No. L.S. 1553—L.W. 99-51-4, dated Bangalore, the 16th July 1951.

In exercise of the powers conferred by Section 42 of the Mysore Shops and Establishment Act, 1948 (Mysore Act II of 1948), His Highness the Maharaja of Mysore is pleased to appoint the Assistant Commissioner of Labour, Shimoga Division, to be *Ex-Officio* Inspector for the purposes of the said Act within the local limits of Davangere City.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

NOTIFICATION.

No. 1799—Cts. 27-51-2, dated Bangalore, the 18th July 1951.

In exercise of the powers conferred by Section 3 of the Special Marriage Act, 1872 (III of 1872) as applied to the Mysore State, the Government of Mysore are pleased to appoint the Personal Assistant to the Deputy Commissioner, Bangalore District, Bangalore, for the time being, to be a Marriage Registrar under the said Act for the Corporation Area.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Secretary to Government,
Law Department*



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The Mysore Gazette

(PUBLISHED BY AUTHORITY)

(EXTRAORDINARY)

BANGALORE, WEDNESDAY, JULY 25, 1951.

PART IV

Section—1-B.

**CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE PRESIDENT.**

NOTIFICATION

No. L.D. 795—Legis. 4-51-89, dated Bangalore, 21st July 1951.

Ordered that the Representation of the People Act, 1951 (Central Act No. XLIII of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 18th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

Received assent on 17th July 1951.

GOVERNMENT OF INDIA, MINISTRY OF LAW.

THE REPRESENTATION OF THE PEOPLE ACT, 1951.

(XLIII OF 1951).

AN

ACT

to provide for the conduct of elections to the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt and illegal practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

Be it enacted by Parliament as follows :—

PART I

PRELIMINARY.

1. Short title.—This Act may be called the Representation of the People Act, 1951.

2. Interpretation.—(1) In this Act, unless the context otherwise requires,—

- (a) each of the expressions defined in section 2 or sub-section (1) of section 27 of the Representation of the People Act, 1950 (XLIII of 1950), but not defined in this Act, shall have the same meaning as in that Act ;
- (b) “appropriate authority” means, in relation to an election to the House of the People or the Council of States or to a primary election, the Central Government, and in relation to an election to the Legislative Assembly or the Legislative Council of a State, the State Government ;
- (c) “corrupt practice” means any of the practices specified in section 123 or section 124 ;
- (d) “election” means an election to fill a seat or seats in either House of Parliament or in the House or either House of the Legislature of a State other than the State of Jammu and Kashmir and includes a primary election ;
- (e) “elector”, in relation to a constituency, means a person whose name is for the time being entered in the electoral roll of that constituency ;
- (f) “illegal practice” means any of the practices specified in section 125 ;
- (g) “prescribed” means prescribed by rules made under this Act ;
- (h) “primary election” means an election for the purpose of constituting or reconstituting an electoral college under section 27A of the Representation of the People Act, 1950 (XLIII of 1950) for a scheduled Part C State or for the purpose of filling any casual vacancy in the seat of a member of such electoral college ;
- (i) “Scheduled Castes” and “Scheduled Tribes” in relation to a Part C State, mean respectively the castes specified in the Sixth Schedule and the tribes specified in the Seventh Schedule to the Representation of the People Act, 1950 (XLIII of 1950) in relation to that State ;

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(j) "scheduled Part C State" means any Part C State or group of such States for the time being specified in the first column of the Fifth Schedule to the Representation of the People Act, 1950 (XLIII of 1950);

(k) "sign" in relation to a person who is unable to write his name means authenticate in such manner as may be prescribed;

(l) "Tribunal" means a tribunal appointed by the Election Commission under section 86.

(2) For the purposes of this Act, a Council of States constituency, a Parliamentary constituency, an Assembly constituency, a Council constituency, a local authorities' constituency, a graduates' constituency and a teachers' constituency shall each be treated as a constituency of a different class.

(3) Any requirement under this Act that a notification, order, rule, declaration, notice or list issued or made by any authority shall be published in the official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule, declaration, notice or list shall—

(a) where it is issued or made by the Central Government, be published in the *Gazette of India*.

(b) where it is issued or made by a State Government be published in the official Gazette of the State; and

(c) where it is issued or made by any other authority, be published in the *Gazette of India* if it relates to an election to, or membership of, either House of Parliament or to a primary election, and in the Official Gazette of the State if it relates to an election to, or membership of, the House or either House of the Legislature of a State.

(4) Where, under any of the provisions of this Act, anything is to be prescribed, different provisions may be made for different cases or classes of cases.

(5) Any reference in this Act to a law which is not in force in a Part B State shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

(6) Any reference in this Act to a High Court or to the Judge of a High Court shall, in relation to a Part C State having a Court of the Judicial Commissioner, be construed as a reference to the said Court of the Judicial Commissioner or to the Judicial Commissioner or any Additional Judicial Commissioner, as the case may be.

(7) Any reference in this Act to the Legislative Council of a State shall be construed as not including a reference to the Coorg Legislative Council.

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

CHAPTER I

Qualifications for membership of Parliament.

3. Qualifications for membership of the Council of States.—(1) A person shall not be qualified to be chosen as a representative of any Part A or Part B State (other than the State of Jammu and Kashmir) in the Council of States unless he is an elector for a Parliamentary constituency in that State.

(2) A person shall not be qualified to be chosen as a representative of the States of Ajmer and Coorg or of the States of Manipur and Tripura in the Council of States unless he is an elector for any Parliamentary constituency in the State in which the election of such representative is to be held.

(3) Save as otherwise provided in sub-section (2), a person shall not be qualified to be chosen as a representative of any Part C State or group of such States in the Council of States unless he is an elector for a Parliamentary constituency in that State or in any of the States in that group, as the case may be.

4. Qualifications for membership of the House of the People.—A person shall not be qualified to be chosen to fill a seat in the House of the People, other than a seat allotted to the State of Jammu and Kashmir or to the Andaman and Nicobar Islands, unless—

(a) in the case of a seat reserved for the Scheduled Castes in any State, he is a member of any of the Scheduled Castes, whether of that State or of any other State, and is an elector for any Parliamentary constituency ;

(b) in the case of a seat reserved for the Scheduled Tribes in any State (other than those in the autonomous districts of Assam), he is a member of any of the Scheduled Tribes, whether of that State or of any other State (excluding the tribal areas of Assam), and is an elector for any Parliamentary constituency ;

(c) in the case of a seat reserved for the Scheduled Tribes in the autonomous districts of Assam, he is a member of any of those Scheduled Tribes and is an elector for the Parliamentary constituency in which such seat is reserved or for any other Parliamentary constituency comprising any such autonomous district ; and

(d) in the case of any other seat, he is an elector for any Parliamentary constituency.

CHAPTER II

Qualifications for membership of State Legislatures.

5. Qualifications for membership of a Legislative Assembly.—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly of a State unless—

(a) in the case of a seat reserved for the Scheduled Castes or for the Scheduled Tribes of that State, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any Assembly constituency in that State ;

(b) in the case of a seat reserved for an autonomous district of Assam, other than a seat the constituency for which comprises the cantonment and municipality of Shillong, he is a member of a Scheduled Tribe of that district and is an elector for the Assembly constituency in which such seat or any other seat is reserved for that district ; and

(c) in the case of any other seat, he is an elector for any Assembly constituency in that State.

6. Qualifications for membership of a Legislative Council.—(1) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by election unless he is an elector for any Assembly constituency in that State.

(2) A person shall not be qualified to be chosen to fill a seat in the Legislative Council of a State to be filled by nomination by the Governor or the Rajpramukh, as the case may be, unless he is ordinarily resident in the State.

CHAPTER III

Disqualifications

7. Disqualifications for membership of Parliament or of a State Legislature.—A person shall be disqualified for being chosen as, and for being, a member of

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either House of Parliament or of the Legislative Assembly or Legislative Council of a State—

(a) if, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice which has been declared by section 139 or section 140 to be an offence or practice entailing disqualification for membership of Parliament and of the Legislature of every State, unless such period has elapsed as has been provided in that behalf in the said section 139 or section 140, as the case may be ;

(b) if, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release ;

(c) if, having been nominated as a candidate for Parliament or the Legislature of any State or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification ;

(131) (d) if, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by, the appropriate Government ;

(e) if, he is a director or managing agent of, or holds any office of profit under, any corporation in which the appropriate Government has any share or financial interest ;

(f) if, having held any office under the Government of India or the Government of any State or under the Crown in India or under the Government of an Indian State, he has, whether before or after the commencement of the Constitution, been dismissed for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal.

8. Savings.—(1) Notwithstanding anything in section 7—

(a) a disqualification under clause (a) or clause (b) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the Legislature of a State, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of ;

(b) a disqualification under clause (c) of that section shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Election Commission may in any particular case allow ;

(c) a disqualification under clause (d) of that section shall not, where the share or interest in the contract devolves on a person by inheritance or succession or as a legatee, executor or administrator, take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow ;

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(d) a person shall not be disqualified under clause (d) of that section by reason of his having a share or interest in a contract entered into between a public company of which he is a shareholder but is neither a director holding an office of profit under the company nor a managing agent and the appropriate Government ;

(e) a person shall not be disqualified under clause (e) of that section by reason of his being a director unless the office of such director is declared by Parliament by law to so disqualify its holder ;

(f) a disqualification under clause (e) of that section shall not, in the case of a director, take effect where the law making any such declaration as is referred to in clause (e) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the Legislature of a State, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow ;

(g) a disqualification under clause (f) of that section may, in the case of any of the candidates for the first elections under this Act, be removed by the Election Commission for reasons to be recorded by it in writing.

(2) Nothing in clause (d) of section 7 shall extend to a contract entered into between a co-operative society and the appropriate Government.

9. Interpretation, etc.—(1) In this chapter—

(a) “ appropriate Government ” means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State, the State Government ;

(b) “ public company ” means a public company as defined in section 2 of the Indian Companies Act, 1913 (VII of 1913).

(2) For the avoidance of doubt it is hereby declared that where any such contract as is referred to in clause (d) of section 7 has been entered into by or on behalf of a Hindu undivided family and the appropriate Government, every member of that family shall become subject to the disqualification mentioned in the said clause ; but where the contract has been entered into by a member of a Hindu undivided family carrying on a separate business in course of such business, any other member of the said family having no share or interest in that business shall not become subject to such disqualification.

(3) If any question is raised as to whether a person who, having held any office referred to in clause (f) of section 7, has been dismissed is disqualified under that clause for being chosen as a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the State shall be conclusive proof that he is not disqualified under that clause.

CHAPTER IV

Qualification and disqualification for membership of electoral colleges.

10. Qualification for membership of electoral colleges for certain Part C States.—A person shall not be qualified to be chosen as a member of an electoral college for any scheduled Part C State, unless he is an elector for any Council of States constituency in that State.

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11. Disqualification for membership of electoral colleges for certain Part C States.—A person shall be disqualified for being chosen as a member of an electoral college for any scheduled Part C State if he is for the time being disqualified for being chosen as a member of either House of Parliament under any of the provisions of article 102.

PART III

NOTIFICATION OF GENERAL ELECTIONS

CHAPTER I

Parliament

The Council of States

12. Notification for election to the Council of States.—(1) For the purpose of constituting the Council of States under the Constitution in due time, the President shall,—

(a) after the names of the elected members of the Legislative Assemblies of Part A States and Part B States other than the State of Jammu and Kashmir first constituted under the Constitution have been notified under section 67, call upon the elected members of each such Assembly, by a notification in the *Gazette of India*, to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) after the names of the members of the electoral colleges for the scheduled Part C States first constituted under Part IV-A of the Representation of the People Act, 1950 (XLIII of 1950), have been notified under section 67, by another notification call upon the members of the electoral college for each Part C State or group of such States concerned to elect a member or members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Council of States, the President shall,—

(a) by a notification in the *Gazette of India*, call upon the elected members of the Legislative Assembly of each of the States referred to in sub-section (1) concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified, in such notification, and

(b) by another notification call upon the members of the electoral college for each of the Part C States and group of such States concerned and also the elected members of the Coorg Legislative Council, if necessary, to elect a member or members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that the notifications under this sub-section shall be issued on such dates, not being more than four months prior to the date on which the term of office of the retiring members would expire under section 154, as may be recommended in this behalf by the Election Commission.

13. Notification for constitution of electoral colleges for certain Part C States.—For the purpose of the first constitution and of each subsequent reconstitution of the electoral college for each scheduled Part C State under

Part IV-A of the Representation of the People Act, 1950 (XLIII of 1950), the President shall by one or more notifications in the *Gazette of India* call upon all Council of States constituencies concerned to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date or dates as may be appointed in this behalf by the Election Commission and specified in the notification or notifications :

Provided that every such notification calling upon the Council of States constituencies in any Part C State or group of such States shall be issued, as far as may be, at the same time when a notification calling upon the Parliamentary constituencies in such State or group of States to elect a member or members for the purpose of constituting the House of the People in due time or on the expiration of the duration of that House or on its dissolution, as the case may be, is issued.

The House of the People.

14. General elections to the House of the People.—(1) A general election shall be held for the purpose of constituting the House of the People under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of the House of the People or on its dissolution in order that a new House of the People may be constituted.

15. Notification for election to the House of the People.—For the purpose of constituting the House of the People under the Constitution in due time or on the expiration of the duration of the House of the People or on its dissolution, the President shall, by one or more notifications published in the *Gazette of India* on such date or dates as may be recommended by the Election Commission call upon all the Parliamentary constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date or dates as may be appointed in this behalf by the Election Commission and specified in the notification or notifications :

Provided that for the purpose of constituting the House of the People on the expiration of its duration, no such notification shall be issued at any time earlier than four months prior to the date on which the duration of the House of the People would expire in the ordinary course of events.

CHAPTER II.

State Legislatures.

The State Legislative Assemblies.

16. General elections to Legislative Assemblies.—(1) A general election shall be held for the purpose of constituting the Legislative Assembly of each State under the Constitution in due time.

(2) A general election shall also be held on the expiration of the duration of an Assembly or on its dissolution in order that a new Assembly may be constituted.

17. Notification for election to State Legislative Assemblies.—For the purpose of constituting the Legislative Assembly of a State under the Constitution in due time or on the expiration of the duration of an Assembly or on its dissolution, the Governor or Rajpramukh, as the case may be, of the State shall, by one or more notifications published in the Official Gazette on such date or dates as may be recommended by the Election Commission, call upon all the Assembly constituencies to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date or dates as may be appointed in this behalf by the Election Commission and specified in the notification or notifications :

Provided that for the purpose of constituting the Legislative Assembly of a State on the expiration of its duration, no such notification shall be issued at any time earlier than four months prior to the date on which the duration of the Legislative Assembly of the State would expire in the ordinary course of events.

The State Legislative Councils.

18. Notification for election to State Legislative Councils.—(1) For the purpose of constituting the Legislative Council of a State under the Constitution in due time, the Governor or Rajpramukh of the State, as the case may be, shall—

(a) by a notification in the Official Gazette call upon every local authorities' constituency, every graduates' constituency and every teachers' constituency to elect in accordance with the provisions of this Act and of the rules and orders made thereunder a member or members before such date as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) after the names of the members of the Legislative Assembly of the State first constituted under the Constitution have been notified under section 67, call upon such members, by another notification in the Official Gazette, to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified in such notification.

(2) For the purpose of filling the seats of members retiring on the expiration of their respective terms of office in every second year after the constitution of the Legislative Council of a State, the Governor or Rajpramukh, as the case may be, shall—

(a) by a notification in the Official Gazette call upon every local authorities' constituency, every graduates' constituency and every teachers' constituency concerned to elect in accordance with the provisions of this Act and of the rules and orders made thereunder a member or members before such date as may be appointed in this behalf by the Election Commission and specified in such notification, and

(b) by another notification in the Official Gazette call upon the members of the Legislative Assembly of the State to elect members in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be appointed in this behalf by the Election Commission and specified in such notification :

Provided that the notifications under this sub-section shall be issued on such dates, not being more than four months prior to the date on which the term of office of the retiring members would expire under section 156, as may be recommended in this behalf by the Election Commission.

PART IV.

ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS.

19. Definition.—In this Part and in Part V, unless the context otherwise requires, "constituency" means a Council of States constituency or a Parliamentary constituency or an Assembly constituency or a Council constituency.

20. Returning Officer for each constituency.—For each constituency there shall be a Returning Officer who shall be such officer of Government as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate :

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the Returning Officer for more than one constituency.

21. Returning Officers at other elections.—The Returning officer for an election (other than a primary election) to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall be such officer of Government as the Election Commission may, in consultation with the Government of that State, designate or nominate.

22. Assistant Returning Officers.—(1) The Election Commission may appoint one or more persons to assist any Returning Officer in the performance of his functions :

Provided that every such person shall be an officer of Government.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer :

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer which relate to the acceptance of a nomination paper or to the scrutiny of nominations or to the counting of votes unless the Returning Officer is unavoidably prevented from performing the said function.

23. Returning Officer to include Assistant Returning Officers performing the functions of the Returning Officer.—References in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 22.

24. General duty of the Returning Officer.—It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.

25. Provision of polling stations for constituencies.—The Returning Officer for each constituency shall, with the previous approval of the Election Commission, provide a sufficient number of polling stations for such constituency, and shall publish, in such manner as the Election Commission may direct, a list showing the polling stations so provided and the polling areas for which they have respectively been provided.

26. Appointment of presiding officers for polling stations.—(1) The Returning Officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election :

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the Returning Officer accordingly.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the Returning Officer to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

27. General duty of the presiding officer.—It shall be the general duty of the presiding officer at a polling station to keep order thereat and to see that the poll is fairly taken.

28. Duties of a polling officer.—It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.

29. Special provisions in the case of certain elections.—(1) The Returning Officer for an election (other than a primary election) to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, with the previous approval of the Election Commission, fix the place at which the poll will be taken for such election and shall notify the place so fixed in such manner as the Election Commission may direct.

(2) The Returning Officer shall preside over such election at the place so fixed and shall appoint such polling officer or officers to assist him as he thinks necessary but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election.

PART V

CONDUCT OF ELECTIONS

CHAPTER I

Nomination of candidates

30. Appointment of dates for nominations, etc.—As soon as the notification calling upon a constituency to elect a member or members is issued under this Act, the appropriate authority in the case where such notification has been issued under the provisions of Part III or of this part, and the Election Commission in the case where such notification has been issued under the provisions of Part IX, shall, by notification in the Official Gazette, appoint—

- (a) the last date for making nominations, which shall be a date not later than the fourteenth day after the date of publication of the first mentioned notification nor earlier than the eighth day after the date of publication of the notification under this section ;
- (b) the date for the scrutiny of nominations, which shall be a date not later than the seventh day after the last date for making nominations ;
- (c) the last date for the withdrawal of candidatures, which shall be the third day after the date for the scrutiny of nominations ; and
- (d) the date or dates on which a poll shall, if necessary, be taken which or or the first of which shall be a date not earlier than the thirtieth day after the last date for the withdrawal of candidatures.

31. Public notice of election.—On the issue of a notification under section 30, the Returning Officer for the constituency shall give public notice of the intended election in such form and manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

32. Nomination of candidates for election.—Any person may be nominated as a candidate for election to fill a seat in any constituency if he is qualified to be chosen to fill that seat under the provisions of the Constitution and this Act.

33. Presentation of nomination paper and requirements for a valid nomination.—(1) On or before the date appointed under clause (a) of section 30 each candidate shall, either in person or by his proposer or seconder, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the Returning Officer at the place specified in this behalf in the notice issued under section 31 a nomination paper completed in the prescribed form and subscribed by the candidate himself as assenting to the nomination and by two persons referred to in sub-section (2) as proposer and seconder.

(2) Any person whose name is registered in the electoral roll of the constituency and who is not subject to any disqualification mentioned in section 16 of the Representation of the People Act, 1950 (XLIII of 1950), may subscribe as proposer or seconder as many nomination papers as there are vacancies to be filled but no more :

Provided that if the name of a person is entered more than once in the electoral roll of a constituency or is included in the electoral roll of two or more constituencies of the same class, such person shall not be entitled to subscribe as proposer or seconder more than one nomination paper for each vacancy to be filled in that constituency, or in not more than one of such constituencies of the same class.

(3) Every nomination paper delivered under sub-section (1) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed as his election agent for the election either himself or another person who is not disqualified under this Act for the appointment and who shall be named in the declaration, and by such other declarations, if any as may be prescribed ; and no candidate shall be deemed to be duly nominated unless such declaration is, or all such declarations are, delivered along with the nomination paper :

Provided that in a constituency where any seat is reserved for the Scheduled Castes or for the Scheduled Tribes, no candidate shall be deemed to be qualified to be chosen to fill that seat unless his nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of the Scheduled Castes or of the Scheduled Tribes for which the seat has been so reserved and the declaration specifies the particular caste or tribe of which the candidate is a member and also the area in relation to which such caste or tribe is one of the Scheduled Castes or Scheduled Tribes, as the case may be :

Provided further that in a constituency where any seat is reserved for an autonomous district of Assam other than the constituency comprising the cantonment and municipality of Shillong, no candidate shall be deemed to be duly nominated for the seat so reserved unless the nomination paper is accompanied by a declaration verified in the prescribed manner that the candidate is a member of any of the Scheduled Tribes of that district and the declaration specifies the particular tribe of which the candidate is a member :

Provided also that where any person having held any office referred to in clause (f) of section 7 has been dismissed and the period of five years from the date of such dismissal has not expired or the disqualification, if any, under that clause has not been removed by the Election Commission under clause (g) of sub-section (1) of section 8, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the Election Commission to the effect that he has not been dismissed for corruption or disloyalty to the State.

(4) Any nomination paper which is not received before three o'clock in the afternoon on the last date appointed under clause (a) of section 30 shall be rejected.

(5) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer and seconder as entered in the nomination paper are the same as those entered in the electoral rolls :

Provided that the Returning Officer may—

- (a) permit any clerical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls ; and
- (b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked.

(6) If at the time of the presentation of the nomination paper the Returning Officer finds that the name of the candidate is not registered in the electoral roll of the constituency for which he is the Returning Officer, he shall for the purposes of sub-section (5) require the person presenting the nomination paper to produce either a copy of the electoral roll in which the name of the candidate is included or a certified copy of the relevant entries in such roll.

(7) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper for election in the same constituency.

34. Deposits.—(1) A candidate shall not be deemed to be duly nominated unless he deposits or causes to be deposited in the case of an election to Parliament (other than a primary election) a sum of five hundred rupees, in the case of an election to the Legislature of a State a sum of two hundred and fifty rupees, and in the case of a primary election a sum of fifty rupees :

Provided that—

- (a) where the candidate is a member of any of the Scheduled Castes or the Scheduled Tribes, the amount to be deposited by him or on his behalf shall be two hundred and fifty rupees in the case of an election to Parliament (other than a primary election), and one hundred and twenty-five rupees in the case of an election to the Legislature of a State ;
- (b) where a candidate has been nominated by more than one nomination paper for election in the same constituency, not more than one deposit shall be required of him under this sub-section.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of delivery of the nomination paper under sub-section (1) of section 33 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

35. Notice of nominations and the time and place for their scrutiny.—The Returning Officer shall, on receiving the nomination paper under sub-section (1) of section 33, inform the person or persons delivering the same of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number, and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

36. Scrutiny of nominations.—(1) On the date fixed for the scrutiny of nominations under section 30, the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the Returning Officer may appoint; and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner laid down in section 33.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

- (a) that the candidate is not qualified to be chosen to fill the seat under the Constitution or this Act; or
- (b) that the candidate is disqualified for being chosen to fill the seat under the Constitution or this Act; or
- (c) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-section (2) of section 33; or
- (d) that there has been any failure to comply with any of the provisions of section 33 or section 34; or
- (e) that the signature of the candidate or any proposer or seconder is not genuine or has been obtained by fraud.

(3) Nothing contained in clause (c), clause (d) or clause (e) of sub-section (2) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 30 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is made the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purposes of this section—

(a) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under the Constitution or this Act, or that the proposer or seconder, as the case may be, is disqualified under sub-section (2) of section 33;

(b) where a person has subscribed, whether as proposer or seconder, a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

37. Withdrawal of candidature.—(1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three o'clock in the afternoon on the day fixed under clause (c) of section 30 to the Returning Officer either by such candidate in person or by his proposer, seconder or election agent who has been authorised in this behalf in writing by such candidate:

Provided that if that day is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881) or has been notified by the State Government as a day to be observed as a holiday in Government offices in the State, the notice of withdrawal of candidature shall be considered as having been delivered in due time if it is delivered before three o'clock in the afternoon on the next succeeding day which is neither such a public holiday nor a day so notified.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on receiving a notice of withdrawal under sub-section (1), as soon as may be thereafter, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

38. Publication of nominations.—The Returning Officer shall, immediately after the expiry of the period within which candidatures may be withdrawn under sub-section (1) of section 37, prepare and publish a list of valid nominations in such manner as may be prescribed.

39. Nomination of candidates at other elections.—(1) Any person may be nominated as a candidate for election to fill a seat in the Council of States to be filled by election by the elected members of the Legislative Assembly of a State or by the members of the electoral college for a Part C State or group of such States or by the elected members of the Coorg Legislative Council, or a seat in the Legislative Council of a State to be filled by election by the members of the Legislative Assembly of that State, if he is qualified to be chosen to fill that seat under the Constitution and this Act.

(2) As soon as the notification calling upon the elected members or the members of the Legislative Assembly of a State or the members of the electoral college for a Part C State or group of such States or the elected members of the Coorg Legislative Council to elect a member or members is issued under this Act, the appropriate authority in the case where such notification has been issued under section 12 or section 18, and the Election Commission in the case where such notification has been issued under section 147 or section

151, shall, by notification in the Official Gazette, appoint for such election—

- (a) the last date for making nominations which shall be a date not later than the fourteenth day after the date of publication of the first mentioned notification, nor earlier than the fifth day after the date of publication of the notification under this sub-section ;
- (b) the date for the scrutiny of nominations which shall be a date not later than the seventh day after the last date for making nominations ;
- (c) the last date for the withdrawal of candidatures which shall be the third day after the date for the scrutiny of nominations ; and
- (d) the date on which a poll shall, if necessary, be taken which shall be a date not earlier than the seventh day after the last date for the withdrawal of candidatures.

(3) On the issue of a notification under sub-section (2), the Returning Officer for the election shall give public notice of the intended election in such form and manner as may be prescribed inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

(4) The provisions of sub-sections (1), (3), (4), (5) and (7) of section (33) and sections 34 to 38 shall apply in relation to nominations of candidates, deposits to be made on such nominations and withdrawal of candidatures at any such election as they apply in relation to nominations of candidates, deposits to be made on such nominations and withdrawal of candidatures at elections in any constituency other than a Council of States constituency :

Provided that any person who is entitled to vote at any such election as is referred to in sub-section (1) shall be qualified to subscribe as proposer or seconder as many nomination papers at that election as there are vacancies to be filled but no more :

Provided further that at the time of the presentation of the nomination paper, the Returning Officer may require the person presenting the same to produce either a copy of the electoral roll in which the name of the candidate is included or a certified copy of the relevant entries in such roll :

Provided also that any references in the said provisions—

- (a) to the electoral roll of the constituency shall, unless the context otherwise requires, be construed, in the case of an election by the elected members or by the members of the Legislative Assembly of a State, as references to the list of elected members or to the list of members, as the case may be, of that Assembly maintained under sub-section (1) of section 152, and in the case of an election by the members of the electoral college for a Part C State or group of such States or by the elected members of the Coorg Legislative Council, as references to the list of members of such electoral college or to the list of elected members of the Coorg Legislative Council, as the case may be, maintained under sub-section (2) of that section ;
- (b) to section 30, to section 31 and to sub-section (2) of section 33 shall be construed as references to sub-section (2) of this section, to sub-section (3) of this section and to the first proviso to this sub-section respectively.

CHAPTER II

Candidates and their agents.

40. Appointment of election agents.—(1) Every person nominated as a candidate at an election shall before the delivery of his nomination paper under

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sub-section (1) of section 33 or under that sub-section read with sub-section (4) of section 39, as the case may be, appoint in writing either himself or some one other person to be his election agent.

(2) When a candidate appoints some person other than himself to be his election agent he shall obtain in writing the acceptance by such person of the office of such election agent.

41. Disqualification for being an election agent.—No person shall be appointed an election agent who is disqualified from being an election agent under section 145.

42. Revocation of the appointment, or death of an election agent.—(1) Any revocation of the appointment of an election agent, whether he be the candidate himself or not, shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before a return of the candidate's election expenses has been lodged in accordance with the provisions of section 76, the candidate shall appoint forthwith either himself or some other person to be his election agent in the manner provided in section 40, and shall give notice in writing of the appointment to the Returning Officer.

43. Effect of default in appointment of election agent under section 42.—(1) If the appointment of an election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed or re-appointed, as the case may be, his election agent.

(2) If the election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself his election agent as from the time of the death.

44. Duty of the election agent to keep accounts.—Every election agent shall, for each election for which he is appointed election agent, keep separate and regular books of account, and shall enter therein such particulars of expenditure in connection with the election as may be prescribed.

45. Other functions of the election agents.—Every election agent shall perform such other functions in connection with each election for which he is appointed election agent as are required to be performed by or under this Act by such agent.

46. Appointment of polling agents.—A candidate who has been duly nominated under this Act and who has not withdrawn his candidature in the manner and within the time specified in sub-section (1) of section 37, or in that sub-section read with sub-section (4) of section 39, as the case may be, or his election agent may, at least three days before the commencement of the poll, appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to such officer as may be prescribed.

47. Appointment of counting agents.—Any such candidate as is mentioned in section 46 or his election agent may, before the commencement of the counting of votes, appoint in the prescribed manner one agent and no more to be present as his counting agent at the counting of votes, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

48. Revocation of the appointment, or death, of a polling agent or counting agent.—(1) Any revocation of the appointment of a polling agent shall be

signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment in the prescribed manner to such officer as may be prescribed.

(2) Any revocation of the appointment of a counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the returning officer, and in the event of such a revocation or of the death of a counting agent before the commencement of the counting of votes, the candidate or his election agent may appoint in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment in the prescribed manner to the Returning Officer.

49. Functions of polling agents and counting agents.—(1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

50. Attendance of a candidate or his election agent at polling stations, and performance by him of the functions of a polling agent or counting agent.—(1) At every election where a poll is taken, each candidate at such election and his election agent shall have a right to be present at any polling station provided under section 25 for the taking of the poll or at the place fixed under sub-section (1) of section 29 for the poll.

(2) A candidate or his election agent may himself do any act or think which any polling agent or the counting agent of such candidate, if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such candidate in doing any such act or thing.

51. Non-attendance of polling or counting agents.—Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

CHAPTER III

General procedure at elections

52. Death of candidate before poll.—If a candidate who has been duly nominated under this Act dies after the date fixed for the scrutiny of nominations and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the Election Commission and also to the appropriate authority and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a candidate whose nomination was valid at the time of the countermanding of the poll:

Provided further that no person who has under sub-section (1) of section 37 given a notice of withdrawal of his candidature before the countermanding of the poll shall be ineligible for being nominated as a candidate for the election after such countermanding.

53. Procedure in contested and uncontested elections.—(1) If the number of candidates who were duly nominated and who have not withdrawn their candidatures, in the manner and within the time specified in sub-section (1) of section 37, or in that sub-section read with sub-section (4) of section 39, as the case may be, exceeds the number of seats to be filled, the Returning Officer shall forthwith publish in such form and manner as may be prescribed a list containing the names in alphabetical order and addresses of candidates as given in the nomination papers, together with such other particulars as may be prescribed, and a poll shall be taken.

(2) If the number of such candidates is equal to the number of seats to be filled, the Returning Officer shall forthwith declare all such candidates to be duly elected to fill those seats.

(3) If the number of such candidates is less than the number of seats to be filled, the Returning Officer shall forthwith declare all such candidates to be elected and the appropriate authority shall, by notification in the Official Gazette, call upon the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college concerned or the elected members of the Coorg Legislative Council, as the case may be, to elect a person or persons to fill the remaining seat or seats before such date as may be appointed in this behalf by the Election Commission and specified in the notification :

Provided that where the constituency or the elected members or the members of the State Legislative Assembly or the members of the electoral college or the elected members of the Coorg Legislative Council having already been called upon under this sub-section, has or have failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the appropriate authority shall not be bound to call again upon the constituency, or such members to elect a person or persons until such date as the Election Commission may specify in the behalf.

54. Special procedure at elections in constituencies where seats are reserved for Scheduled Castes or Scheduled Tribes.—(1) The provisions of this section shall apply in relation to any election in a constituency where the seats to be filled include one or more seats reserved for the Scheduled Castes or for the Scheduled Tribes (hereinafter referred to as "reserved seats").

(2) If the number of candidates qualified to be chosen to fill the reserved seats is equal to the number of such seats, all those candidates shall be forthwith declared to be elected to fill the reserved seats, and the procedure laid down in section 53 shall be followed for filling the remaining seat or seats.

(3) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of such seats, but the total number of candidates is equal to the total number of seats to be filled, the Returning Officer shall first select by lot, to be drawn by him in such manner as he may determine, the candidates to be declared elected to the reserved seats out of the candidates qualified to be chosen to fill those seats and then declare the candidates so selected to be duly elected to fill the reserved seats and thereafter declare the remaining candidates to be duly elected to fill the remaining seats.

(4) If the number of candidates qualified to be chosen to fill the reserved seats exceeds the number of such seats, and the total number of candidates also exceeds the total number of seats to be filled, the procedure laid down in sub-section (1) of section 53 shall be followed ; and after the poll has been taken, the Returning Officer shall first declare those who, being qualified to be chosen to fill the reserved seats, have secured the largest number of votes, to be duly elected to fill the reserved seats, and then declare such of the remaining candidates as have secured the largest number of votes to be duly elected to fill the remaining seats.

Illustration.—At an election in a constituency to fill four seats of which two are reserved there are six candidates A, B, C, D, E and F, and they secure votes in descending order, A securing the largest number. B, C and D are qualified to be chosen to fill the reserved seats, while A, E and F are not so qualified. The Returning Officer will first declare B and C duly elected to fill the two reserved seats, and then declare A and D (not A and E) to fill the remaining two seats.

(5) If the number of candidates qualified to be chosen to fill the reserved seats is less than the number of such seats,—

(a) all those candidates shall be forthwith declared to be duly elected to fill reserved seats ;

(b) the procedure laid down in section 53 shall be followed for filling the seats other than the reserved seats ; and

(c) the appropriate authority shall, by notification in the Official Gazette, call upon the constituency to elect a person or persons to fill the remaining reserved seat or seats before such date as may be appointed in this behalf by the Election Commission and specified in the notification :

Provided that where a constituency having been already so called upon has failed to elect a person or the requisite number of persons to fill the reserved seat or seats, the appropriate authority shall not be bound to call again upon the constituency to elect a person or persons to fill the vacancy or vacancies until such date as the Election Commission may specify in this behalf.

(6) In this section, references to candidates shall be construed as references to candidates who were duly nominated and who have not withdrawn their candidatures in the manner and within the time specified in sub-section (1) of section 37.

55. Eligibility of members of Scheduled Castes or Scheduled Tribes to hold seats not reserved for those castes or tribes.—For the avoidance of doubt it is hereby declared that a member of the Scheduled Castes or of the Scheduled Tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seat under the Constitution and this Act.

CHAPTER IV

The Poll

56. Fixing time for poll.—The appropriate authority shall fix the hours during which the poll will be taken ; and the hours so fixed shall be published in such manner as may be prescribed :

Provided that the total period allotted on any one day for polling at an election in a constituency shall not be less than eight hours.

57. Adjournment of poll in emergencies.—(1) If at an election the proceedings at any polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the presiding officer for such polling station or the Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by a presiding officer, he shall forthwith inform the Returning Officer concerned.

(2) Whenever a poll is adjourned under sub-section (1), the Returning Officer shall immediately report the circumstances to the appropriate authority and the Election Commission, and shall, as soon as may be, with the previous approval

of the Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and the hours during which, the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

58. Fresh poll in the case of destruction, etc., of ballot boxes.—(1) If at any election any ballot box or boxes is or are unlawfully taken out of the custody of the Returning Officer or of any presiding officer, or is or are in any way tampered with, or is or are either accidentally or intentionally destroyed or lost, the election to which such ballot box or boxes relate shall be void, but only in respect of the polling at the polling station or stations provided under section 25 or the place fixed under sub-section (1) of section 29 for the poll, as the case may be, at which such ballot box or boxes was or were used and no further:

(2) Whenever the polling at any polling station or stations or at the place fixed for the poll shall become void under sub-section (1), the Returning Officer shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, report the matter to the appropriate authority and to the Election Commission and shall, with the previous approval of the Election Commission appoint a day for the taking of a fresh poll in such or every such polling station or in such place fixed for the poll and fix the hours during which the poll will be taken, and shall not count the votes cast at such election until such fresh poll shall have been completed.

(3) In every such case as aforesaid the Returning Officer shall take a fresh poll in such or every such polling station or in such place fixed for the poll as aforesaid on the day so appointed by him, and shall notify the day so appointed and the hours of polling so fixed by him in such manner as the Election Commission may direct, and the provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

59. Manner of voting at elections.—At every election where a poll is taken votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

60. Special procedure for voting by certain classes of persons.—Without prejudice to the generality of the provisions contained in section 59, provision may be made by rules made under this Act for enabling—

(a) any of the following persons to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, namely:—

(i) a member of the Armed Forces of the Union to whom the provisions of sub-section (3) of section 20 of the Representation of the People Act, 1950 (XLIII of 1950), apply;

(ii) a person holding any office in India declared by the President to be an office to which the provisions of sub-section (4) of that section apply;

(iii) a person who is employed under the Government of India in a post outside India;

(iv) the wife of any such person as is referred to in sub-clauses (i), (ii) and (iii) to whom the provisions of sub-section (6) of the said section 20 apply;

(b) any person subjected to preventive detention under any law for the time being in force to give his vote by postal ballot, and not in any other manner, at an election in a constituency where a poll is taken, subject to the fulfilment of such requirements as may be specified in those rules.

61. Special procedure for preventing personation of electors.—Provision may also be made by rules made under this Act for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him and for prohibiting the delivery of any ballot paper to any person for voting at a polling station if at the time such person applies for such paper he has already such a mark on his thumb or any other finger so as to prevent personation of electors.

62. Right to vote.—(1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (XLIII of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police.

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

63. Method of voting.—(1) In plural member constituencies other than Council constituencies every elector shall have as many votes as these are members to be elected, but no elector shall give more than one vote to any one candidate.

(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (1), then at the time of counting of votes not more than one of the votes given by him to such candidate shall be taken into account and all the other votes given by him to such candidate shall be rejected as void.

CHAPTER V

Counting of votes

64. Counting of votes.—At every election where a poll is taken, votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, his election agent and his counting agent, shall have a right to be present at the time of counting.

65. Equality of votes.—If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of those candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

66. Declaration of results.—When the counting of the votes has been completed, the Returning Officer shall forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

67. Report of the result.—As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the appropriate authority and the Election Commission and in the case of an election to a House of Parliament or of the Legislature of a State also to the Secretary of that House, and the appropriate authority shall cause to be published in the Official Gazette the declarations containing the names of the elected candidates.

CHAPTER VI

Multiple elections

68. Vacation of seats when elected to both Houses of Parliament.—(1) Any person who is chosen a member of both the House of the People and the Council of States and who has not taken his seat in either House may, by notice in writing signed by him and delivered to the Secretary to the Election Commission within ten days from the date of publication in the *Gazette of India* of the declarations that he has been so chosen or, if such publications have been made on different dates, within ten days from the later of such dates, intimate in which of the Houses he wishes to serve, and thereupon, his seat in the House in which he does not wish to serve shall become vacant.

(2) In default of such intimation within the aforesaid period, his seat in the Council of States shall, at the expiration of that period, become vacant.

(3) Any intimation given under sub-section (1) shall be final and irrevocable.

69. Vacation of seats by persons already members of one House on election to other House of Parliament.—(1) If a person who is already a member of the House of the People and has taken his seat in such House is chosen a member of the Council of States, his seat in the House of the People shall, on the publication in the *Gazette of India* of the declaration that he has been so chosen, become vacant.

(2) If a person who is already a member of the Council of States and has taken his seat in such Council is chosen a member of the House of the People, his seat in the Council of States shall, on the publication in the *Gazette of India* of the declaration that he has been so chosen, become vacant.

70. Election to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State.—If a person is elected to more than one seat in either House of Parliament or in the House or either House of the Legislature of a State, then, unless within the prescribed time he resigns all but one of the seats, all the seats shall become vacant.

CHAPTER VII

Publication of election results and nominations

71. Publication of results of elections to the Council of States and of names of persons nominated by the President.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of Section 12, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges for the various Part C States and group of such States at the said elections together with the names of the persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 12, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected by the elected members of the Legislative Assemblies of the States and by the members of the electoral colleges for the various Part C States and group of such States including the elected members of the Coorg Legislative Council at the said elections together with the names of any persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 67 and shall be made as soon as may be after the last of the dates fixed for the completion of the elections under sub-section (1) or, as the case may be, sub-section (2) of section 12, and after the publication of the notification or notifications containing the names of persons nominated by the President to the Council under sub-clause (a) of clause (1) of article 80 or under any other provisions.

72. Publication of results of primary elections for the constitution or reconstitution of electoral colleges for certain Part C States.—After the elections held in pursuance of the notification or notifications issued under section 13 for the first constitution or any subsequent reconstitution of the electoral college for a scheduled Part C State, there shall be notified by the appropriate authority in the Official Gazette, as soon as may be after the date or the last of the dates fixed for the completion of the said elections, the names of the members elected for the various Council of States constituencies at the said elections and such notification shall be in addition to the publication of the declarations under section 67.

73. Publication of results of general elections to the House of the People and of names of persons nominated by the President.—After the election held in pursuance of the notification or notifications issued under section 15 for the constitution of the House of the People in due time or on the expiration of its duration or on its dissolution, there shall be notified by the appropriate authority in the Official Gazette, as soon as may be after the date or the last of the dates fixed for the completion of the said elections, the names of the members elected for the various Parliamentary constituencies at the said elections together with the names of persons, if any, nominated by the President to that House under article 331 or under any other provisions, and such notification shall be in addition to the publication of the declarations under section 67.

74. Publication of results of general elections to the State Legislative Assemblies and of names of persons nominated to such Assemblies.—After the elections held in pursuance of the notification or notifications issued under section 17 for the constitution of the Legislative Assembly of a State in due time or on the expiration of its duration or on its dissolution, there shall be notified by the appropriate authority in the Official Gazette, as soon as may be after the date or the last of the dates fixed for the completion of the said elections, the names of the members elected for the various Assembly constituencies at the said elections together with the names of persons, if any, nominated by the Governor or Rajpramukh, as the case may be, of the State under article 333 or under any other provisions and such notification shall be in addition to the publication of the declarations under section 67.

75. Publication of results of elections to the State Legislative Councils and of names of persons nominated to such Councils.—(1) After the elections held in pursuance of the notifications issued under sub-section (1) of section 18, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of the persons nominated by the Governor or Rajpramukh, as the case may be, of the State under sub-clause (e) of clause (3) of article 171.

(2) After the elections held in any year in pursuance of the notifications issued under sub-section (2) of section 18, there shall be notified by the appropriate authority in the Official Gazette the names of the members elected for the various Council constituencies and by the members of the Legislative Assembly of the State at the said elections together with the names of any persons nominated by the Governor or Rajpramukh, as the case may be, under sub-clause (e) clause (3) of article 171.

(3) The notification of names under sub-section (1) or sub-section (2) shall be in addition to the publication of the declarations under section 67 and shall be made as soon as may be after the last of the dates fixed for the completion of the elections under sub-section (1) or, as the case may be, sub-section (2) of section 18, and after the publication of the notification containing the names of persons nominated by the Governor or Rajpramukh, as the case may be, under sub-clause (e) of clause (3) of article 171.

CHAPTER VIII.

Election expenses

76. Return of election expenses.—(1) Within the prescribed time after every election there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate, a return of the election expenses of that person signed by him and his election agent.

(2) Every such return shall be in such form and shall contain such particulars as may be prescribed, and shall be accompanied by declarations in the prescribed form by the candidate and his election agent made on oath or solemn affirmation before a magistrate.

(3) Notwithstanding anything in this section, where owing to absence from India a candidate is unable to sign the return of election expenses and to make the required declaration, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent only, and the candidate shall, within fourteen days after his return to India, cause to be lodged with the Returning Officer a declaration made on oath or solemn affirmation before a magistrate in such form as may be prescribed.

77. Maximum election expenses, etc.—The maximum scales of election expenses at elections and the numbers and descriptions of persons who may be employed for payment in connection with elections shall be such as may be prescribed.

78. Application of this Chapter to certain elections.—Except so far as may be prescribed, this Chapter shall not apply to an election (other than a primary election) to fill a seat or seats in the Council of States or to an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of that State.

PART VI

DISPUTES REGARDING ELECTIONS

CHAPTER I

Interpretation

79. Definitions.—In this Part and in Parts VII and VIII, unless the context otherwise requires,—

(a) “agent” includes an election agent, a polling agent and a counting agent and any person who, on the trial of an election petition or

of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;

- (b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when with the election in prospect, he began to hold himself out as a prospective candidate;
- (c) "costs" means all costs, charges and expenses of, or incidental to, a trial of an election petition;
- (d) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election;
- (e) "pleader" means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;
- (f) "returned candidate" means a candidate whose name has been published under section 67 as duly elected.

CHAPTER II

Presentation of election petitions to Election Commission

80. Election petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this Part.

81. Presentation of petitions.—(1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-sections (1) and (2) of section 100 and section 101 to the Election Commission by any candidate at such election or any elector in such form and within such time but not earlier than the date of publication of the name or names of the returned candidate or candidates at such election under section 67, as may be prescribed.

Explanation.—In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) An election petition shall be deemed to have been presented to the Election Commission—

- (a) when it is delivered to the Secretary to the Commission or to such other officer as may be appointed by the Election Commission in this behalf—
 - (i) by the person making the petition, or
 - (ii) by a person authorised in writing in this behalf by the person making the petition; or
- (b) when it is sent by registered post and is delivered to the Secretary to the Commission or the officer so appointed.

82. Parties to the petition.—A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.

83. Contents of petition.—(1) An election petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908) for the verification of pleadings.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.

(3) The Tribunal may, upon such terms as to costs and otherwise as it may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in its opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

84. Relief that may be claimed by the petitioner.—A petitioner may claim any one of the following declarations :—

- (a) that the election of the returned candidate is void ;
- (b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected ;
- (c) that the election is wholly void.

85. Petition when to be dismissed.—If the provisions of section 81, section 83 or section 117 are not complied with, the Election Commission shall dismiss the petition :

Provided that if a person making the petition satisfies the Election Commission that sufficient cause existed for his failure to present the petition within the period prescribed therefor, the Election Commission may in its discretion condone such failure.

CHAPTER III

Trial of election petitions

86. Appointment of Election Tribunal.—(1) If the petition is not dismissed under section 85, the Election Commission shall appoint an Election Tribunal for the trial of the petition.

(2) For the purpose of constituting such Tribunals the Election Commission shall obtain from the High Court of each State (other than Jammu and Kashmir)—

- (a) a list of persons who are or have been district judges in the State and who are in the opinion of the High Court fit to be appointed as members of the Election Tribunals, and
- (b) a list of advocates of that High Court who have been in practice for a period of not less than ten years and who are in the opinion of the High Court fit to be appointed as such members

and shall maintain the lists by making such alterations therein as the High Court may from time to time direct.

(3) Every Tribunal appointed under sub-section (1) shall consist of—

- (a) a Chairman who shall be either a person who is or has been a judge of a High Court, or a person selected by the Election Commission from the list maintained by it under clause (a) of sub-section (2) ; and
- (b) two other members of whom one shall be selected by the Election Commission from the list maintained under clause (a) of sub-section (2) and the other shall be selected by it from the list maintained under clause (b) of that sub-section :

Provided that where the petition for the trial of which a Tribunal is to be appointed is in respect of an election to the Legislative Assembly or the Legislative Council of a State, no person who belongs to the judicial service of another State shall be selected for appointment as a member of the Tribunal except with the consent of the Government of the other State :

Provided further that nothing in this sub-section shall be deemed to prevent the appointment of a Chairman of the Tribunal before that of the other members.

(4) If during the course of the trial, any member of a Tribunal is for any reason unable to perform his functions or has to relinquish his membership, the Election Commission shall appoint another member in accordance with the provisions of sub-section (3), and upon his joining the Tribunal the trial shall be continued as if he had been on the Tribunal from the commencement of the trial:

Provided that the Tribunal may, if it thinks fit, recall and re-examine any of the witnesses already examined.

(5) References to the tribunal in this Part shall, as respects any matter to be done before the commencement of the trial, be deemed to be references to the Chairman of the Tribunal.

(6) In this section, the expressions "district judge" and "judicial service" have the same meanings as in article 236.

87. Connected petitions to be referred to same Tribunal.—Where more petitions than one are presented in respect of the same election, the Election Commission shall refer all of them to the same Tribunal, which may, in its discretion, try them separately or in one or more groups.

88. Place of trial.—The trial shall be held at such place as the Election Commission may appoint:

Provided that a Tribunal may, in its discretion, sit for any part of the trial at any other place in the State in which the election to which the petition relates has taken place.

89. Attendance of law officers.—(1) The Tribunal may, in the case of an election petition in relation to a primary election or to an election to fill a seat in either House of Parliament, require the Attorney-General of India or the Advocate-General of the State in which the election has taken place or some person acting under the instructions of the Attorney-General or such Advocate-General, and in the case of an election petition in relation to an election to fill a seat in the House or either House of the Legislature of State, require the Advocate-General of the State in which the election has taken place or some person acting under his instructions, to attend at the trial.

(2) The Attorney-General or the Advocate-General or the person acting under the instructions of the Attorney-General or the Advocate-General, as the case may be, shall, when so required, attend at the trial and shall take such part therein as the Tribunal may direct.

90. Procedure before the Tribunal.—(1) The Tribunal shall, as soon as may be, cause a copy of the petition together with a copy of the list of particulars referred to in sub-section (2) of section 83 to be served on each respondent and to be published in the Official Gazette. and at any time within fourteen days after such publication, any other candidate shall, subject to the provisions of section 119, be entitled to be joined as a respondent.

(2) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the Tribunal, as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908), to the trial of suits:

Provided that it shall be sufficient for the Tribunal to make a memorandum of the substance of the evidence of any witness examined by the Tribunal and it shall not be necessary for the Tribunal to take down the evidence of any witness in

writing at length unless the Tribunal is, on the application of any party or otherwise, satisfied that there is any special reason for so doing :

Provided further that the Tribunal shall have the discretion to refuse for reasons to be recorded in writing to examine and witness or witnesses if it is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(3) The provision of the Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

(4) Notwithstanding anything contained in section 85, the Tribunal may dismiss an election petition which does not comply with the provisions of section 81, section 83 or section 117.

91. Appearance before Tribunal.—Any appearance, application or act before the Tribunal may be made or done by the party in person or by a pleader duly appointed to act on his behalf :

Provided that it shall be open to the Tribunal to direct any party to appear in person whenever the Tribunal considers it necessary.

92. Powers of the Tribunal.—The Tribunal shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters:—

- (a) discovery and inspection ;
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses ;
- (c) compelling the production of documents ;
- (d) examining witnesses on oath ;
- (e) granting adjournments ;
- (f) reception of evidence taken on affidavit ; and
- (g) issuing commission for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to it to be material ; and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Tribunal shall be the limits of the State in which the election was held.

93. Documentary Evidence.—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

94. Secrecy of voting not to be infringed.—No witness or other person shall be required to state for whom he has voted at an election.

95. Answering of criminating questions and certificate of indemnity.—(1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture :

Provided that—

- (a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Tribunal ; and

(b) an answer given by a witness to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX-A of the Indian Penal Code (Act XLV of 1860) or Part VII of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

96. Expenses of witnesses.—The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Tribunal to such person, and shall, unless the Tribunal otherwise directs, be deemed to be part of the costs.

97. Recrimination when seat claimed.—(1) When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election :

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under section 90, given notice to the Tribunal of his intention to do so and has also given the security and the further security referred to in sections 117 and 118 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and list of particulars required by section 83 in the case of an election petition and shall be signed and verified in like manner.

98. Decision of the Tribunal.—At the conclusion of the trial of an election petition the Tribunal shall make an order—

- (a) dismissing the election petition ; or
- (b) declaring the election of the returned candidate to be void ; or
- (c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected ; or
- (d) declaring the election to be wholly void.

99. Other orders to be made by the Tribunal.—(1) At the time of making an order under section 98 the Tribunal shall also make an order—

- (a) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, recording—
 - (i) a finding whether any corrupt or illegal practice has or has not been proved to have been committed by, or with the connivance of, any candidate or his agent at the election, and the nature of that corrupt or illegal practice ; and
 - (ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and the nature of that practice, together with any such recommendations as the Tribunal may think proper to make for the exemption of any persons from any disqualifications which they may have incurred in this connection under sections 141 to 143 ; and

- (b) fixing the total amount of costs payable; and specifying the persons by and to whom costs shall be paid :

Provided that no person shall be named in the order under sub-clause (ii) of clause (a) unless—

- (a) he has been given notice to appear before the Tribunal and to show cause why he should not be so named ; and
 (b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Tribunal and has given evidence against him, of calling evidence in his defence and of being heard.

(2) Any order as to costs under clause (b) of sub-section (1) may include a direction for the payment of costs to the law officer attending the trial in pursuance of any requisition of the Tribunal under section 89.

100. Grounds for declaring election to be void.—(1) If the Tribunal is of opinion—

- (a) that the election has not been a free election by reason that the corrupt practice of bribery or of undue influence has extensively prevailed at the election ; or
 (b) that the election has not been a free election by reason that coercion or intimidation has been exercised or resorted to by any particular community, group or section on another community, group or section to vote or not to vote in any particular way at the election ; or
 (c) that the result of the election has been materially affected by the improper acceptance or rejection of any nomination,
 the Tribunal shall declare the election to be wholly void.

Explanation.—In clause (b) of this sub-section, the expression “ coercion or intimidation ” means any interference or attempt to interfere by whatever means with the free exercise of the right to vote or refrain from voting at an election, and includes a social or economic boycott of members of a community, group or section, or threat of such boycott, with intent to interfere with the free exercise of such right by those members.

(2) Subject to the provisions of sub-section (3), if the Tribunal is of opinion—

- (a) that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice ; or
 (b) that any corrupt practice specified in section 123 has been committed by a returned candidate or his agent or by any other person with the connivance of a returned candidate or his agent ; or
 (c) that the result of the election has been materially affected by the improper reception or refusal of a vote or by the reception of any vote which is void, or by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form,
 the Tribunal shall declare the election of the returned candidate to be void.

(3) If in the opinion of the Tribunal, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice specified in section 123, but the Tribunal is satisfied—

- (a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice

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was committed contrary to the orders, and without the sanction or connivance, of the candidate or his election agent ;

- (b) that all such corrupt practices were of a trivial and limited character or took the form of customary hospitality which did not affect the result of the election ;
- (c) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt or illegal practices at the election ; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents,

then the Tribunal may decide that the election of the returned candidate is not void.

101. Grounds for which a candidate other than the returned candidate may be declared to have been elected.—If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Tribunal is of opinion—

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes ; or
- (b) that but for the votes obtained by the returned candidate by corrupt or illegal practices the petitioner or such other candidate would have obtained a majority of the valid votes,

the Tribunal shall after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

102. Procedure in case of an equality of votes.—If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then—

- (a) any decision made by the Returning Officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition ; and
- (b) in so far as that question is not determined by such a decision, the Tribunal shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

103. Communication of orders to the Election Commission and the transmission of the records of the case.—The Tribunal shall, after announcing the orders made under sections 98 and 99, send a copy thereof to the Election Commission and the records of the case to the district judge of the district within which the place of trial appointed under section 88 is situate, or if such place is in a presidency-town, to the chief judge of the court of small causes having jurisdiction there, as the case may be.

104. Difference of opinion among the members of the Tribunal.—If during the trial of an election petition there is a difference of opinion among the members of the Tribunal on any matter or if at the conclusion of such trial there is a difference of opinion among them on any question regarding the orders to be made under section 98 or section 99, the opinion of the majority shall prevail, and the orders of the Tribunal shall be expressed in terms of the views of the majority.

105. Orders of the Tribunal to be final and conclusive.—Every order of the Tribunal made under this Act shall be final and conclusive.

106. Transmission of order to the appropriate authority, etc., and its publication.—As soon as may be after the receipt of any order made by the Tribunal under section 98 or section 99, the Election Commission shall forward copies of the order to the appropriate authority and, in the case where such order relates to an election (other than a primary election) to a House of Parliament or to an election to the House or a House of the Legislature of a State, also to the Speaker or Chairman, as the case may be, of the House concerned, and shall cause the order to be published in the *Gazette of India* and in the Official Gazette of the State concerned.

107. Orders to take effect only on publication.—An order of the Tribunal under section 98 or section 99 shall not take effect until it is published in the *Gazette of India* under section 106.

CHAPTER IV

Withdrawal and abatement of election petitions.

108. Withdrawal of petitions before appointment of Tribunal.—An election petition may be withdrawn only by leave of the Election Commission if an application for its withdrawal is made before any Tribunal has been appointed for the trial of such petition.

109. Withdrawal of petitions after appointment of Tribunal.—(1) Where an application for withdrawal of an election petition is made after a Tribunal has been appointed for the trial of such petition, the election petition may be withdrawn only by leave of the Tribunal.

(2) Where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette.

110. Procedure for withdrawal of petitions before the Election Commission or the Tribunal.—(1) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if in the opinion of the Election Commission or of the Tribunal, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) If the application is granted.—

(a) the petitioner shall where the application has been made to the Tribunal, be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Tribunal may think fit;

(b) notice of the withdrawal shall be published in the Official Gazette by the Election Commission or by the Tribunal, as the case may be;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of section 117 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

111. Report of withdrawal by the Tribunal to the Election Commission.—When an application for withdrawal is granted by the Tribunal and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 110, in place of the party withdrawing, the Tribunal shall report the fact to the Election Commission.

112. Abatement of election petitions.—An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

113. Abatement of petition before appointment of Tribunal.—If an election petition abates under section 112 before a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the Official Gazette by the Election Commission.

114. Abatement of petition after appointment of Tribunal.—Where an election petition abates under section 112 after a Tribunal has been appointed for the trial of the petition, notice of the abatement shall be published in the Official Gazette by the Tribunal.

115. Substitution on death of petitioner.—After a notice of the abatement of an election petition is published under section 113 or section 114, any person who might himself have been a petitioner may, within fourteen days of such publication, apply to the substituted as petitioner and upon compliance with the conditions of section 117 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Tribunal may think fit.

116. Abatement or substitution on death of respondent.—If before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the Tribunal shall cause notice of such event to be published in the Official Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Tribunal may think fit.

CHAPTER V

Costs and security for costs.

117. Deposit of security.—The petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of one thousand rupees has been made by him either in a Government Treasury or in the Reserve Bank of India in favour of the Secretary to the Election Commission as security for the costs of the petition.

118. Further security for costs.—During the course of the trial of an election petition the Tribunal may at any time call upon the petitioner to give such further security for costs as it may direct, and may, if he fails to do so, dismiss the petition.

119. Security for costs from a respondent.—No person shall be entitled to be joined as a respondent under sub-section (1) of section 90 unless he has given such security for costs as the Tribunal may direct.

120. Costs.—(1) Costs including pleaders' fees shall be in the discretion of the Tribunal.

(2) The Tribunal may allow interest on costs at a rate not exceeding three per cent per annum, and such interest shall be added to the costs.

121. Payment of costs out of security deposits and return of such deposits.—(1) If in any order as to costs under the provisions of this Part there is a direction for payment of costs by any party to any person, such costs shall, if they have

not been already paid, be paid in full, or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Part, on an application made in writing in that behalf within a period of six months from the publication of such order under section 106 to the Election Commission by the person in whose favour the costs have been awarded.

(2) If there is any balance left of any of the said security deposits after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits, may on an application made in that behalf in writing to the Election Commission by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

122. Execution of orders as to costs.—Any order as to costs under the provisions of this Part may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, or where such place is within a presidency-town, before the court of small causes having jurisdiction there, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (1) of section 121, no application shall lie under this section within a period of six months from the date of publication of such order under section 106 unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

PART VII

CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES

CHAPTER I

Corrupt practices.

123. Major corrupt practices.—The following shall be deemed to be corrupt practices for the purposes of this Act :—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent, or by any other person within the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting.

Explanation.—For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for

reward; but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election and duly entered in the return of election expenses referred to in section 76.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community: or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause:

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name; or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled to vote.

(4) The removal of a ballot paper from the polling station during polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent.

(5) The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 25 or a place fixed under sub-section (1) of section 29 for the poll:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under the clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going

to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

(7) The incurring or authorising by a candidate or his agent of expenditure or the employment of any person by a candidate or his agent, in contravention of this Act or of any rule made thereunder.

(8) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government of India or the Government of any State other than the giving of vote by such person.

Explanation.—For the purposes of this clause—

(a) a person serving under the Government of India shall not include any person who has been declared by the Central Government to be a person to whom the provisions of this clause shall not apply ;

(b) a person serving under the Government of any State shall include a patwari, chaukidar, dafedar, zaildar, shanbagh, karnam, talati, talari, patil, village munsif, village headman or any other village officer, by whatever name he is called, employed in that State, whether the office he holds is a whole-time office or not, but shall not include any person (other than any such village officer as aforesaid) who has been declared by the State Government to be a person to whom the provisions of this clause shall not apply.

124. Minor corrupt practices.—The following shall also be deemed to be corrupt practices for the purposes of this Act :—

(1) Any act specified in clauses (1) to (8) of section 123, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

(2) The application by a person at an election for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other constituency, he is not entitled vote.

(3) The receipt of, or agreement to receive, any gratification whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate ; or

(b) by any person whomever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation.—For the purposes of this clause the term “gratification” has the same meaning as it has for the purposes of clause (1) of section 123.

(4) The making of any return of election expenses which is false in any material particular, or the making of a declaration verifying any such return.

(5) The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for the furtherance of the prospects of a candidate's election.

Illegal practices

125. Illegal practices.—The following shall be deemed to be illegal practices for the purposes of this Act :—

(1) The incurring or authorisation by any person other than a candidate or his agent of expenses on account of holding any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever, for the purpose of promoting or procuring the election of the candidate, unless he is authorised in writing so to do by the candidate.

Explanation.—Any such expenses as aforesaid incurred or authorised by any institution or organisation for the furtherance of the prospects of the election of a candidate supported by such institution or organisation shall not be deemed to be expenses incurred or authorised within the meaning of this clause.

(2) The hiring, using or letting, as a committee room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

(3) The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

CHAPTER III

Electoral offences.

126. Prohibition of public meetings on the election day.—(1) No person shall convene, hold or attend any public meeting within any constituency on the date or dates on which a poll is taken for an election in that constituency.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

127. Disturbances at election meetings.—(1) Any person who at a public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with fine which may extend to two hundred and fifty rupees.

(2) This section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

128. Maintenance of secrecy of voting.—(1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or a fine or with both.

129. Officers, etc. at elections not to act for candidates or to influence.—(1) No person who is a Returning Officer, or an Assistant Returning Officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the Returning Officer or the presiding officer to perform any duty in connection with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the interests of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour—

- (a) to persuade any person to give his vote at an election, or
- (b) to dissuade any person from giving his vote at an election, or
- (c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months or with fine or with both.

130. Prohibition of canvassing in or near polling stations.—(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely:—

- (a) canvassing for votes ; or
- (b) soliciting the vote of any elector ; or
- (c) persuading any elector not to vote for any particular candidate ; or
- (d) persuading any elector not to vote at the election ; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

131. Penalty for disorderly conduct in or near polling stations.—(1) No person shall, on the date or dates on which a poll is taken at any polling station,—

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker, or

- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

as to cause annoyance to any person visiting the polling station for the poll, or as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

132. Penalty for misconduct at the polling station.—(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

133. Penalty for illegal hiring or procuring of conveyances at elections.—If any person is guilty of any such corrupt practice as is specified in clause (6) of section 123 at or in connection with an election, he shall be punishable with fine which may extend to two hundred and fifty rupees.

134. Breaches of official duty in connection with elections.—(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the Electoral Registration Officers, Returning Officers, Assistant Returning Officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of an electoral roll, the receipt of nominations or withdrawal of candidatures, or the recording or counting of votes at an election, and the expression "official duty" shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950 (XLIII of 1950).

135. Removal of ballot papers from polling station to be an offence.—(1) Any person who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided, that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

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136. Other offences and penalties therefor.—(1) A person shall be guilty of an electoral offence if at any election he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or
- (c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelope used in connection with voting by postal ballot; or
- (d) without due authority supplies any ballot paper to any person; or
- (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

Any person guilty of an electoral offence under this section shall—

- (a) if he is a Returning Officer or an Assistant Returning Officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;
- (b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act or by or under the Representation of the People Act, 1950 (XLIII of 1950).

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

137. Prosecution regarding certain offences.—(1) If the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State has reason to believe that any offence punishable under section 129, or under section 134 or under clause (a) of sub-section (2) of section 136 has been committed in reference to any election within a State, it shall be the duty of the Election Commission, the Regional Commissioner or the Chief Electoral Officer, as the case may be, to cause such inquiries to be made and such prosecutions to be instituted as the circumstances of the case may appear to it or him to require.

(2) No court shall take cognizance of any offence punishable under section 129 or under section 134 or under clause (a) of sub-section (2) of section 136 unless there is a complaint made by order of, or under authority from, the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State concerned.

138. Amendment of Act V of 1898.—In the Code of Criminal Procedure, 1898—

(a) in section 196, after the word and figures “section 127”, the words, figures and letter “and section 171-F, so far as it relates to the offence of personation” shall be inserted;

(b) in Schedule II—

(i) in the entry relating to section 171-F of the Indian Penal Code (Act XLV of 1860) from the paragraph in column 2, the words “and personation” shall be omitted;

(ii) after the paragraph in column 2 of the said entry as so amended, the following paragraph shall be inserted, namely:—

“Personation at an election.”;

(iii) in column 3, opposite the paragraph inserted by sub-clause (ii), the following paragraph shall be inserted namely:—

“May arrest without warrant.”;

(iv) in columns 4, 5, 6, 7 and 8, opposite the paragraph inserted by sub-clause (ii), the word “Ditto” shall be inserted;

(v) in the entry relating to section 171-G of the Indian Penal Code, in column 3, for the word “Ditto” the words “shall not arrest without warrant” shall be substituted.

PART VIII

DISQUALIFICATIONS

CHAPTER I

Disqualifications for membership

139. Offences entailing disqualification.—(1) The following offences shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:—

(a) offences punishable with imprisonment under section 171E or section 171F of the Indian Penal Code (Act XLV of 1860), and

(b) offences punishable under section 135 or clause (a) of sub-section (2) of section 136 of this Act.

(2) The period of such disqualification shall be six years from the date of the conviction for the offence.

140. Corrupt and illegal practices entailing disqualification.—(1) The following corrupt or illegal practices relating to elections shall entail disqualification for membership of Parliament and of the Legislature of every State, namely:—

(a) corrupt practices specified in section 123 or section 124, and

(b) illegal practices specified in section 125.

(2) The period of such disqualification shall be six years in the case of a corrupt practice, and four years in the case of an illegal practice, counting from the date on which the finding of the Election Tribunal as to such practice takes effect under this Act.

CHAPTER II

Disqualifications for voting

141. Disqualification arising out of conviction and corrupt practices.—If any person after the commencement of this Act—

(a) is convicted of an offence punishable with imprisonment under section 171E or section 171F of the Indian Penal Code (Act XLV of 1860), or of

an offence punishable under section 135 or clause (a) of sub-section (2) of section 136 of this Act, or

(b) is, upon the trial of an election petition under Part VI, found guilty of any corrupt practice,

he shall, for a period of six years from the date of the conviction or from the date on which such finding takes effect, be disqualified for voting at any election.

142. Disqualification arising out of illegal practices.—If, in relation to any election, any person is, upon the trial of an election petition under Part VI found guilty of any illegal practice, he shall be disqualified for voting at any election for a period of four years from the date on which such finding takes effect.

143. Disqualification arising out of failure to lodge return of election expenses.—If default is made in making the return of the election expenses of any person who has been nominated as a candidate at an election to which the provisions of Chapter VIII of Part V apply, or if such a return is found either upon the trial of an election petition under Part VI or by any court in a judicial proceeding, to be false in any material particular, the candidate and his election agent shall be disqualified for voting at any election for a period of five years from the date by which the return was required to be lodged.

144. Removal of disqualifications.—Any disqualification under this Chapter may be removed by the Election Commission for reasons to be recorded by it in writing.

CHAPTER III

Other Disqualifications

145. Disqualification for being an election agent.—Any person who is for the time being disqualified under the foregoing provisions of this Part for being a member of either House of Parliament or the House or either House of the Legislature of a State or for voting at elections, shall, so long as the disqualification subsists, also be disqualified for being an election agent at any election.

146. Disqualification for holding certain offices.—Any person who—

(a) has been convicted of an offence punishable with imprisonment under section 171E or section 171F of the Indian Penal Code (Act XLV of 1860), or of an offence punishable under section 135 or clause (a) of sub-section (2) of section 136 of this Act, or

(b) has been disqualified from exercising any electoral right for a period of not less than five years on account of any corrupt practices in connection with an election,

shall be disqualified for six years from the date of such conviction or disqualification from—

(i) being appointed to, or acting in, any judicial office ;

(ii) being elected to any office of any local authority when the appointment to such office is by election, or holding or exercising any such office to which no salary is attached ;

(iii) being elected or sitting or voting as a member of any local authority ;
or

(iv) being appointed or acting as a trustee of a public trust :

Provided that any disqualification under this section may be removed by the Election Commission for reasons to be recorded by it in writing.

PART IX

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BY-ELECTIONS

147. Casual vacancies in the Council of States.—When before the expiration of the term of office of a member elected to the Council of States, his seat becomes vacant or is declared vacant or his election to the Council of States is declared void, the Election Commission shall by a notification in the *Gazette of India* call upon the elected members of the Legislative Assembly or the members of the electoral college concerned or the elected members of the Coorg Legislative Council, as the case may be, to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

148. Casual vacancies in the electoral colleges for certain Part C States.—When the seat of a member elected to the electoral college for a scheduled Part C State becomes vacant or is declared vacant or his election to such electoral college is declared void, the Election Commission shall, by a notification in the *Gazette of India*, call upon the Council of States constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

149. Casual vacancies in the House of the People.—(1) When the seat of a member elected to the House of the People becomes vacant or is declared vacant or his election to the House of the People is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the *Gazette of India*, call upon the Parliamentary constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled Castes or to such Scheduled Tribes, as the case may be.

150. Casual vacancies in the State Legislative Assemblies.—(1) When the seat of a member elected to the Legislative Assembly of a State becomes vacant or is declared vacant or his election to the Legislative Assembly is declared void, the Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Official Gazette, call upon the Assembly constituency concerned to elect a person for the purpose of filling the vacancy so caused before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

(2) If the vacancy so caused be a vacancy in a seat reserved in any such constituency for the Scheduled Castes or for any Scheduled Tribes, the notification issued under sub-section (1) shall specify that the person to fill that seat shall belong to the Scheduled castes or to such Scheduled Tribes, as the case may be.

151. Casual vacancies in the State Legislative Councils.—When before the expiration of the term of office of a member elected to the Legislative Council of a State, his seat becomes vacant or is declared vacant or his election to the Legislative Council is declared void, the Election Commission shall, by a notification in the Official Gazette, call upon the Council constituency concerned

or the members of the Legislative Assembly of the State, as the case may be, to elect a person for the purpose of filling the vacancy so caused, before such date as may be specified in the notification, and the provisions of this Act and of the rules and orders made thereunder shall apply, as far as may be, in relation to the election of a member to fill such vacancy.

PART X

MISCELLANEOUS

152. List of members of the State Legislative Assemblies and electoral colleges and of elected members of the Coorg Legislative Council to be maintained by the Returning Officers concerned.—(1) The Returning Officer for an election by the elected members of the Legislative Assembly of a State to fill a seat or seats in the Council of States or for an election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of elected members or a list of members, as the case may be, of that Legislative Assembly.

(2) The Returning Officer for an election by the members of the electoral college for a Part C State or group of such States or by the elected members of the Coorg Legislative Council to fill a seat or seats in the Council of States shall, for the purposes of such election, maintain in his office in the prescribed manner and form a list of members of that electoral college or a list of elected members of the Coorg Legislative Council, as the case may be.

(3) Copies of the lists referred to in sub-sections (1) and (2) shall be made available for sale.

153. Extension of time for completion of election.—(1) It shall be competent for the Election Commission for reasons which it considers sufficient to extend the time appointed by such Commission under the provisions of sub-section (1) or sub-section (2) of section 12, or section 13, or section 15, or section 17 or sub-section (1) or sub-section 2 of section 18 or under any of the provisions of Part IX for the completion of any election.

(2) When the time for the completion of any election is so extended, the President or the Governor or Rajpramukh of the State or the Election Commission, as the case may be, shall by notification in the Official Gazette make the necessary amendments in the notification issued in respect of such election under any of the provisions referred to in sub-section (1).

154. Term of office of members of the Council of States.—(1) The term of office of a member elected to fill the seat in the Council of States to be filled by the representative of the States of Ajmer and Coorg and of a member elected to fill the seat in that Council to be filled by the representative of the States of Manipur and Tripura, other than a member chosen to fill a casual vacancy in either of those seats, shall be two years.

(2) Subject as aforesaid, the term of office of a member of the Council of States, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council of States the President shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(3) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

155. Commencement of the term of office of members of the Council of States.—(1) The term of office of a member of the Council of States whose name is required to be notified in the Official Gazette under section 71 shall begin on the date of such notification.

(2) The term of office of a member of the Council of States whose name is not required to be notified under section 71 shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (a) of clause (1) of article 80 or under any other provision announcing the nomination of such person to the Council of States, as the case may be.

156. Term of office of members of State Legislative Councils.—(1) The term of office of a member of the Legislative Council of a State, other than a member chosen to fill a casual vacancy, shall be six years, but upon the first constitution of the Council the Governor or the Rajpramukh, as the case may be, shall, after consultation with the Election Commission, make by order such provision as he thinks fit for curtailing the term of office of some of the members then chosen in order that, as nearly as may be, one-third of the members holding seats of each class shall retire in every second year thereafter.

(2) A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

157. Commencement of the term of office of members of the Legislative Councils.—(1) The term of office of a member of the Legislative Council of a State whose name is required to be notified in the Official Gazette under section 75 shall begin on the date of such notification.

(2) The term of office of a member of the Legislative Council of a State whose name is not required to be notified under section 75 shall begin on the date of publication in the Official Gazette of the declaration containing the name of such person as elected under section 67 or of the notification issued under sub-clause (e) of clause (3) of article 171, announcing the nomination of such person to the Council, as the case may be.

158. Return or forfeiture of deposits.—(1) If a candidate by whom or on whose behalf the deposit referred to in section 34 or in that section read with sub-section (4) of section 39 has been made withdraws his candidature in the manner and within the time specified in sub-section (1) of section 37 or in that sub-section read with the said sub-section (4), or if the nomination of any such candidate is rejected, the deposit shall be returned to the person by whom it was made and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the person by whom it was made.

(2) If a candidate nominated under section 32 by whom or on whose behalf a deposit has been made under section 34 is not elected, and the number of votes polled by him does not exceed one-sixth of the total number of votes polled or, in the case of a constituency returning more than one member, one-sixth of the total number of votes polled divided by the total number of members to be elected, the deposit shall be forfeited to the appropriate authority.

(3) For the purpose of sub-section (2), the number of votes polled shall be deemed to be the number of ballot papers, other than rejected ballot papers, counted.

(4) The deposit made by or on behalf of a candidate under section 34 or under that section read with sub-section (4) of section 39 shall, where it is not

forfeited under sub-section (2), be returned to such candidate or to the person who has made the deposit on his behalf, as the case may be, after the publication of the result of the election in the Official Gazette :

Provided that if a candidate is duly nominated at a general election in more than one Parliamentary constituency or Council of States constituency or Assembly constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the appropriate authority :

Provided further that if a candidate is duly nominated at an election in more than one Council constituency or at an election in a Council constituency and an election by the members of the State Legislative Assembly to fill seats in the State Legislative Council, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the State Government.

159. Staff of every local authority to be made available for election work.—Every local authority in a State shall, when so requested by the Election Commission or a Regional Commissioner appointed under clause (4) of article 324 or the Chief Electoral Officer of the State, make available to any Returning Officer such staff as may be necessary for the performance of any duties in connection with an election.

160. Requisitioning of premises, vehicles, etc., for election purposes.—(1) If it appears to the State Government that in connection with an election held within the State—

- (a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or
- (b) any vehicle, vessel or animal is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for performance of any duties in connection with such election,

that Government may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the State Government to be the owner or person in possession of the property, and such order shall be served in the prescribed manner on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) In this section—

- (a) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise.

161. Payment of compensation.—(1) Whenever in pursuance of section 160 the State Government requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

- (i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;
- (ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the State Government to an arbitrator appointed in this behalf by that Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression 'person interested' means the person who was in actual possession of the premises requisitioned under section 160 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever in pursuance of section 160 the State Government requisitions any vehicle, vessel or animal; there shall be paid to the owner thereof compensation the amount of which shall be determined by the State Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal:

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the State Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the State Government in this behalf may decide.

162. Power to obtain information.—The State Government may, with a view to requisitioning any property under section 160 or determining the compensation payable under section 161, by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

163. Powers of entry into and inspection of premises, etc.—(1) Any person authorised in this behalf by the State Government may enter into any premises and inspect such premises and any vehicle, vessel or animal therein for the purpose of determining whether, and if so in what manner, an order under section 160 should be made in relation to such premises, vehicle, vessel or

animal or with a view to securing compliance with any order made under that section.

(2) In this section, the expressions "premises" and "vehicle" have the same meanings as in section 160.

164. Eviction from requisitioned premises.—(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 160 may be summarily evicted from the premises by any officer empowered by the State Government in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

165. Release of premises from requisition.—(1) When any premises requisitioned under section 160 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such person, to the person deemed by the State Government to be the owner of such premises, and such delivery of possession shall be a full discharge of the State Government from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 160 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the State Government shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof, and the State Government shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

166. Delegation of functions of the State Government with regard to requisitioning.—The State Government may, by notification in the Official Gazette, direct that any powers conferred or any duty imposed on that Government by any of the provisions of sections 160 to 165 shall, under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer or class of officers as may be so specified.

167. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 160 or section 162, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

168. Special provisions with respect to Rulers of former Indian States.—(1) If the Ruler of a former Indian State is nominated as a candidate for any election under this Act, the provisions of sub-section (1) of section 87-B of the Code of Civil Procedure, 1908 (Act V of 1908) and of sub-sections (2) and (3) of section 197-A of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in relation to such Ruler during the period commencing on the date of his nomination as such candidate and ending on the date on which the result of the election is published under section 67, and shall not apply thereafter in relation to any proceedings for questioning the validity or regularity of such election under Part VI of this Act or in relation to any criminal

proceedings against such Ruler for any offence under Chapter IX-A of the Indian Penal Code (Act XLV of 1860) or Chapter III of Part VII of this Act alleged to have been committed by him at or in connection with such election.

(2) In this section—

- (a) “candidate” has the same meaning as in section 79;
- (b) “former Indian State” means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section;
- (c) “Ruler”, in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.

PART XI

GENERAL

169. Power to make rules.—(1) The Central Government may, after consulting the Election Commission, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the duties of presiding officers and polling officers at polling stations;
- (b) the checking of voters by reference to the electoral roll;
- (c) the manner in which votes are to be given both generally and in the case of illiterate voters or voters under physical or other disability;
- (d) the manner in which votes are to be given by a presiding officer, polling officer, polling agent or any other person, who being an elector for a constituency is authorised or appointed for duty at a polling station at which he is not entitled to vote;
- (e) the procedure to be followed in respect of the tender of vote by a person representing himself to be an elector after another person has voted as such elector;
- (f) the procedure as to voting to be followed at elections held in accordance with the system of proportional representation by means of the single transferable vote;
- (g) the scrutiny and counting of votes including cases in which a recount of the votes may be made before the declaration of the result of the election;
- (h) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;
- (i) any other matter required to be prescribed by this Act.

170. Jurisdiction of civil courts barred.—No civil court shall have jurisdiction to question the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

171. Repeal of Act XXXIX of 1920.—The Indian Elections Offences and Inquiries Act, 1920, is hereby repealed:

Provided that such repeal shall not affect any inquiry in respect of an election to fill any casual vacancy referred to in clause (1) or clause (2) of article 388 by an

Election Tribunal appointed for that purpose by the Election Commission, and the provisions of the said Act shall apply in relation to such election and inquiry notwithstanding such repeal subject to any order made by the President under the said clause (1) or clause (2), as the case may be.

K. V. K. SUNDARAM,
Secretary to Government of India.

The Gazette ^{31⁹} of India



सत्यमेव जयते

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 123]

NEW DELHI, MONDAY, JULY 30, 1951

MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION

New Delhi, the 30th July, 1951.

S. R. O. 1161.—The following Notification issued by the Iron and Steel Controller under clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, is published for general information :

“ NOTIFICATION

In exercise of the powers conferred by sub-clause (1) of clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Iron and Steel Controller is pleased to notify the following amendments to the late Ministry of Industry and Supply Notification No. I (I)-2(32)/50, dated the 12th April, 1950, viz.—

For the existing ‘ Schedule of Base Price ’ and ‘ APPENDIX I ’, the following shall be substituted :—

SCHEDULE OF BASE PRICES

(Price in Rupees per ton)

Base Price Item No.	Grade	Analysis				Maximum Base prices at Cal- cutta, Bombay and Madras.	
		Silicon per cent.	Manganese per cent.	Phosphorus per cent.	Sulphur per cent.	Column I	Column II
						For sales by Registered Producers	For sales by all persons other than Registered Producers
STANDARD GRADES (High Manganese)						Rs.	Rs.
1	Standard foundry 1	2.75—3.25	1.00—1.50	Under 0.40	Under 0.035	133	148
2	Standard foundry 2	2.25—2.75	"	"	Under 0.050	129	144

Base Price Item No.	Grade	Analysis				Maximum Base prices at Cal- cutta, Bombay and Madras.	
		Silicon per cent.	Manganese per cent.	Phosphorus per cent.	Sulphur per cent.	Column I	Column II
						For sales by Registered Producers	For sales by all persons other than Producers
						Rs.	Rs.
3	Standard foundry 3	1.75—2.25	1.60—1.75	Under 0.40	Under 0.035	125	140
4	Standard foundry 4	1.50—1.75	"	"	"	123	138
5	Special 4x	1.25—1.50	"	Under 0.35	"	121	136
6	Special basic	1.00—1.25	"	"	"	119	134
7	Standard basic.	1.00 & under	"	"	"	117	132
LOW MANGANESE GRADES							
8	Low Man- ganese foundry 1	2.75—3.25	0.50—1.00	Under 0.40	Under 0.035	131	146
9	Low Man- ganese foundry 2	2.25—2.75	"	"	Under 0.050	127	142
10	Low Man- ganese foundry 3	1.75—2.25	"	"	"	123	138
11	Low Man- ganese foundry 4	1.50—1.75	"	"	"	121	136
12	Special 4x	1.25—1.50	"	Under 0.35	"	119	134
13	Low Man- ganese basic spe- cial.	1.00—1.25	"	"	"	117	132
14	Low man- ganese basic.	1.00 & under	"	"	"	115	130

APPENDIX I

Quality Extras/Differentials List

Base Price Item No.	Quality	Extras/Differentials
1 to 14	Silicon	Rs. 4 per ton extra for each increase of 0.50 per cent. above No. 1 foundry grade.
1 to 14	Manganese	Rs. 2 per ton penalty for manganese below 0.50 per cent. and Rs. 2 per ton premium for each 0.50 per cent. increase above 1.50 per cent.

Base Price Item No.	Quality	Extras/Differentials
1 to 14	Sulphur	Penalties for off-grade :— Rs. 2 per ton for sulphur up to 0.065 per cent. and under, Rs. 5 per ton for sulphur between 0.066 per cent. and 0.080 per cent., and Rs. 10 per ton for sulphur over 0.080 per cent.

The above amendments shall take effect from the 1st August, 1951.

M. K. POWVALA,
Iron and Steel Controller.

[No. Sc. (A)-2(71)/51.]
C. R. NATESAN, Dy. Secy.

The Gazette of India



EXTRAORDINARY

PART I—Section 1

PUBLISHED BY AUTHORITY

No. 62] NEW DELHI, MONDAY, JULY 30, 1951

MINISTRY OF COMMERCE AND INDUSTRY

RESOLUTION

TARIFF

New Delhi, the 30th July 1951

No. SC(A-2(72)/51).—In their Resolution No. 10-T(3)/49, dated the 13th October, 1949 in the late Ministry of Commerce, the Government of India fixed the current ex-works retention prices for different grades of pig iron, based on the Tariff Board's report, for one year with effect from the 1st November, 1949. At the time of its last inquiry, the Board had been given to understand that the new coke oven battery at the Hirapur Works of the Indian Iron and Steel Company, scheduled to go into production in the course of the year 1949, would bring about a definite improvement in the quality of coke and consequent reduction in its consumption, thereby lowering the cost of production of pig iron. The Board, therefore, recommended that the fair retention prices for pig iron should be reviewed at the end of a year. Government accepted this recommendation and decided that the costs should be re-examined after a year. In accordance with this decision, the Board was asked to undertake the necessary review. The Board, having conducted its inquiry, has submitted its Report. Its main conclusions and recommendations are as follows:—

- (1) Of the three manufacturers of pig iron in the country, viz., the Tata Iron and Steel Company, the Indian Iron and Steel Company, and the Mysore Iron and Steel Works, neither the Tata Iron and Steel Company nor the Mysore Iron and Steel Works regularly produces foundry grades of iron for sale to merchant foundries. In future, practically all the pig iron manufactured at the Hirapur Works of the Indian Iron and Steel Company (IISCO) will be used for steel making by Steel Corporation of Bengal. Accordingly, the Kulti plant of IISCO should be regarded as the sole regular producer of iron of foundry grade, and the price for iron of such grades must be based solely on the costs of production at the Kulti Works.
- (2) The Board has made a detailed analysis and examination of the Works cost of the Kulti plant and has estimated the future works cost of grade III foundry iron at Rs. 83.29 per ton, on the basis of an estimated annual production of 200,000 tons.
- (3) In determining the overhead charges, the same principles as had been adopted in the previous report have more or less been followed, except in respect of depreciation. Having regard to the necessity of replacing the present Kulti plant after five or six years, a total provision of Rs. 24 lakhs for depreciation [Rs. 11 lakhs as normal depreciation and Rs. 13 lakhs (gross) as special depreciation] has been recommended.
- (4) The Railway Board should be requested to review the question of restoring the original concessional freight rate on the movement of iron ore from Gua to the Kulti Works with a view to assisting the Company to reduce the cost of pig iron.

- (5) The minimum pig iron consuming capacity of Indian foundries is estimated at 400,000 to 420,000 tons a year, while the present screened demand is of the order of 600,000 tons a year.
- (6) At present only about two-thirds of the minimum and less than half of the annual screened demand of the foundries can be met from available indigenous supplies of pig iron. As the Steel Corporation of Bengal and the Tata Iron and Steel Company proceed to implement their expansion programmes for steel within the next two or three years, the position of supply of pig iron to the foundries will become acute which will have a serious effect not only on industry in general, which requires castings as components of machinery and equipment and as spare parts for maintenance, but also on agriculture as a result of the shortage of agricultural implements and on the Railways as a result of inability to provide replacement parts. Government should, therefore, give their most serious consideration to this problem and take such action as would ensure availability of adequate supply of iron to the general foundry trade, having due regard at the same time to the need of maximising the steel production of the country.
- (7) In view of the critical shortage of iron, it is essential that measures should be taken to make available to the foundries those qualities of iron which they require most and can use best. For this purpose, it is necessary that the foundry iron production at Kulti should consist chiefly of the high silicon grades, viz., 2.25 per cent. to 2.75 per cent. and 2.75 per cent. to 3.25 per cent.
- (8) The current price schedule of pig iron does not provide adequate compensation for the extra cost of producing the types of foundry iron which are required by the Indian foundries with the result that such types are not being produced at present in sufficient proportions. A new formula for differentials has, therefore, been recommended. The Board's formula, while providing proper compensation to the producers for their extra costs in producing the desired grades of iron, would at the same time help the foundries to avoid cost increases resulting from the expensive use of high cost ferro-alloys. It would also give incentive to the integrated steel works to provide iron of more suitable analysis to the foundries.
- (9) Based on the new formula for differentials, the following schedule of ex-works, retention prices for pig iron has been recommended:—

STANDARD GRADES

(High Manganese)

Grade	Analysis				Proposed ex-works price per ton
	Silicon per cent.	Manganese per cent.	Phosphorus per cent.	Sulphur per cent.	
Standard foundry	1 2.75—3.25	1.00—1.50	Under 0.40	Under 0.035	Rs. 118
	2 2.25—2.75	"	"	Under 0.050	114
	3 1.75—2.25	"	"	"	110
	4 1.50—1.75	"	"	"	108
Special	4X 1.25—1.50	"	Under 0.35	"	106
Special basic	1.00—1.25	"	"	"	104
Standard basic	1.00 & under	"	"	"	102
<i>Low Manganese Grades</i>					
Low Manganese foundry.	1 2.75—3.25	0.50—1.00	Under 0.40	Under 0.035	116
	2 2.25—2.75	"	"	Under 0.050	112
	3 1.75—2.25	"	"	"	108
	4 1.50—1.75	"	"	"	106
Special	4X 1.25—1.50	"	Under 0.35	"	104
Low manganese basic special.	1.00—1.25	"	"	"	102
Low manganese basic.	1.00 & under	"	"	"	100

In addition, the following schedule of quality differentials for all grades has been recommended:

Silicon.—Rs. 4 per ton extra for each increase of 0.50 per cent. above No. 1 foundry grade.

Manganese.—Rs. 2 per ton penalty for manganese below 0.50 per cent. and Rs. 2 per ton premium for each 0.50 per cent. increase above 1.50 per cent.

Sulphur.—Penalties for off-grade.—Rs. 2 per ton for sulphur up to 0.065 per cent. and under, Rs. 5 per ton for sulphur between 0.066 per cent. and 0.080 per cent., and Rs. 10 per ton for sulphur over 0.080 per cent.

2. The Government of India have accepted all the recommendations of the Board and have decided to fix the ex-works retention prices, as above, from the 1st August 1951 for a period of three years. The price increases now granted are subject to the condition that the special depreciation allowed to the Company, namely, Rs. 13 lakhs (gross), is actually set aside for depreciation and used by the Company for replacement of the present Kulti plant and that no part of it is utilised in or towards the payment of any dividends or in the distribution of profit-sharing bonus to employees or for distribution of profits.

3. As regards recommendation (6) referred to in paragraph 1 above, the Government of India are aware of the position and fully alive to the need for supplementing the existing sources of supply. With this end in view, Government have been taking steps to interest private parties to put up one or more new plants to produce 375,000 to 500,000 tons of pig iron.

4. The Government of India hope that the Indian Iron and Steel Company will take steps to implement recommendation (7) referred to in para. 1 above.

5. The selling prices will continue to be on ex-port basis and will be Rs. 15 per ton over and above the ex-works retention prices.

S. A. VENKATARAMAN, Secy.

Registered No. M. 1175.

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[No. 31

PART IV

Section I-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L.D. 637.—Legis. 8-51-16, dated Bangalore, 27th June 1951.

Ordered that the accompanying Industrial Disputes (Amendment and Temporary Provisions) Bill 1951 (Central Bill No. 55 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 9th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

The following Bill was introduced in Parliament on the 5th June, 1951:—

BILL NO. 55 OF 1951.

A Bill further to amend the Industrial Disputes Act, 1947. and to make certain temporary provisions relating to pay and allowances of certain workmen.

BE it enacted by Parliament as follows:—

1. **Short title.**—This Act may be called the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951.

2. **Interpretation.**—All words and expressions used in this Act and defined in the Industrial Disputes Act, 1947 (XIV of 1947) shall have the meanings assigned to them in that Act.

3. Amendment of section 7, Act XIV of 1947.—For sub-sections (2) of section 7 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following sub-sections shall be substituted, namely :—

“(2) A Tribunal shall consist of such number of independent members as the appropriate Government may think fit to appoint, and where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) Where a Tribunal consists of one member only, that member, and where it consists of two or more members, the Chairman of the Tribunal, shall be a person who—

(a) is or has been a Judge of a High Court ; or

(b) is or has been a district judge ; or

(c) is qualified for appointment as a Judge of a High Court;

Provided that no appointment under this sub-section to a Tribunal shall be made of any person not qualified under clause (a) except with the approval of the High Court of the State in which the Tribunal has, or is intended to have, its usual seat.

(4) Where a Tribunal consists of two or more members, every such member (other than the Chairman) shall possess such qualifications as may be prescribed, and where an industrial dispute affecting any banking or insurance company is referred to a Tribunal, one of such members may be a person who, in the opinion of the appropriate Government, has special knowledge of, and experience in, banking or insurance, as the case may be.

(5) A Tribunal, where it consists of two or more members, may act notwithstanding the casual and unforeseen absence of the Chairman or any other member, and when the Chairman or other member rejoins his office after such absence, the proceedings may be continued before the Tribunal from the stage at which he so rejoins.”

4. Substitution of new section for section 8, Act XIV of 1947.—For section 8 of the principal Act, the following section shall be substituted, namely :—

“8. *Filling of vacancies.*—(1) If for any reason a vacancy occurs in the office of the Chairman or any other member of a Board, the appropriate Government shall appoint, in accordance with the provisions of sub-section (3) of section 5, another person to fill the vacancy and the proceedings may be continued before the Board so reconstituted from the stage at which the vacancy is filled.

(2) If for any reason a vacancy occurs in the office of the Chairman or any other member of a court or Tribunal, the appropriate Government shall, in the case of a Chairman, and may, in the case of any other member, appoint another independent person, in accordance with the provisions of section 6 or section 7, as the case may be, to fill the vacancy, and the proceedings may be continued before the Court or the Tribunal so reconstituted from the stage at which the vacancy is filled.”

5. Amendment of section 9, Act XIV of 1947.—Section 9 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

“(2) Where the report of any settlement arrived at in the course of the conciliation proceedings before a Board or the award of a Tribunal consisting of two or more members is signed by the Chairman and all the other members of the Board

3 2 7

or the Tribunal, as the case may be, no such settlement or award shall be invalid by reason only of the casual and unforeseen absence of any of the members (including the Chairman) of the Board or the Tribunal, as the case may be, during any stage of the hearing of the proceedings."

6. Amendment of section 13, Act XIV of 1947.—In sub-section (5) of section 13 of the principal Act, for the words "of the notice under section 22", the words "on which the dispute was referred to it" shall be substituted.

7. Temporary provisions relating to scales of pay, etc., of workmen in banking companies.—(1) No employer in relation to any banking company carrying on business in any Part A State or the State of Delhi, Ajmer or Coorg or the Andaman and Nicobar Islands shall, save in accordance with the terms of any settlement arrived at, or any award made, under the Industrial Disputes Act, 1947 (XIV of 1947),—

(a) after, to the prejudice of any workman employed in such banking company, the scale of pay or rate of allowances according to which he has been paid, or would, if he had been continuously employed during the month of March, 1951, have been paid, in respect of any monthly, weekly or other period immediately before the 1st day of April, 1951; or

(b) recover from any such workman any amount already paid to him whether as pay or allowances (in accordance with any scales of pay or rates of allowances which were applied to him at any time after the 1st day of February, 1950) on the ground that the workman was not legally entitled to such scales of pay or rates of allowances.

Explanation.—For the purposes of this section, "allowances" mean any dearness allowance, house-rent allowance, halting allowance, washing allowance, hill allowance, fuel allowance and officiating allowance (so long as the workman holds the officiating appointment) and includes any special pay or allowance paid to a workman on the ground of special qualifications, skill or responsibility attaching to, or required in respect of, his work or office and also includes the special pay or allowance given to—

- (i) graduates,
- (ii) holders of banking diplomas like C.A.I.I.B. and C.A.I.B.,
- (iii) comptists,
- (iv) stenographers,
- (v) cashiers,
- (vi) supervisors,
- (vii) sub-accountants,
- (viii) clerks-in-charge,
- (ix) departmental-in-charge,
- (x) headclerks, and
- (xi) certain categories of subordinate staff.

(2) For the removal of doubts, it is hereby declared that notwithstanding anything contained in any law it shall be lawful to make such retrospective adjustment in relation to scales of pay and rates of allowances referred to in sub-section (1) as may be necessary in order to give effect to the terms of any settlement arrived at or award made under the Industrial Disputes Act, 1947 (XIV of 1947).

8. **Recovery of money due from an employer.**—Any money due from an employer under the provisions of section 7 may be recovered in the same manner as an arrear of land revenue or as a public demand by the appropriate Government either on its own motion or on an application made to it by the persons entitled to such money.

STATEMENT OF OBJECTS AND REASONS.

Certain disputes between banks having branches in more than one State and their employees were adjudicated upon by an industrial tribunal called the All-India Industrial Tribunal (Bank Disputes) last year. The awards of the Tribunal have recently been declared void by the Supreme Court on the ground of defects in the constitution of the Tribunal. The disputes have, therefore, to be resolved afresh. The main object of the Bill is to ensure that pending such settlement, employees continue to get whatever scales of any or rates of allowances were allowed to them immediately prior to the declaration of the awards as void. Provision has also been made for enabling the appointment of persons other than judges as members of multi-member tribunals and, in particular, the appointment of a banking expert on tribunals adjudicating upon disputes in banks. There is also a clause which extends the provision now applicable only to public utility services to other classes of establishments, prescribing a period of two months as the normal time allowed for conciliation proceedings before a Board. Other clauses are largely consequential.

JAGJIVAN RAM.

NEW DELHI :

The 2nd June, 1951.

M. N. KAUL,

Secretary.

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The Mysore



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BANGALORE, TUESDAY, AUGUST 7, 1951

PART IV

Section 2-C

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.**

NOTIFICATION.

No. L.S. 1871—L.W. 82-51-2, dated Bangalore, the 7th August 1951.

The draft of the following Regulations which are proposed to be made in exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (Central Act XVI of 1926) is hereby published for the information of all persons likely to be affected thereby as required by section 30 of the said Act.

Notice is hereby given that the draft will be taken into consideration after three months from the date of publication of the draft Regulations in the *Mysore Gazette*.

Objections or suggestions, if any, to the draft Regulations may be forwarded to the Legal Remembrancer and Secretary to Government, Law Department, Public Offices, Bangalore, for consideration so as to reach him before the said period.

Mysore Trade Unions Regulations, 1951.

- | | |
|---|------------------------|
| 1. These regulations may be called the Mysore Trade Unions Regulations, 1951. | Title and application. |
| 2. In these regulations— | Definitions. |
| (a) "the Act" means the Indian Trade Unions Act, 1926. | |

(b) "Form" means a form appended to these regulations.

(c) "Section" means a section of the Act.

Applications
for.

registration
Register of
Trade Unions.

3. Every application for registration of a Trade Union under section 4 shall be made in Form A.

4. The Register of Trade Unions referred to in section 8 shall be maintained in Form B.

Certificate of
registration.

5. The certificate of registration issued by the Registrar under section 9 shall be in Form C.

Cancellation
or withdrawal
of
registration.

6. (1) Every application for cancellation or withdrawal of registration under clause (a) of section 10 shall be signed by the Secretary and seven or more members of the trade union and the seal of the trade union shall be affixed thereto.

(2) There shall be appended to every such application a certificate signed by the members making it to the effect that the statements contained in the application are to the best of their knowledge and belief true.

(3) Upon an application for the cancellation or withdrawal of registration of a trade union being presented to him, the Registrar, if he has reason to believe that the applicants have not been duly authorised by such union to make the same, may, for the purpose of ascertaining the fact, require from the applicants such evidence as may seem to him necessary and examine any officer of such union.

(4) The Registrar shall, when he proposes to withdraw or cancel the certificate of registration of a trade union under clause (b) of section 10, cause to be served a notice in Form D on the trade union through its Secretary in person or by registered post.

(5) The certificate of registration issued to a trade union under regulation 5 shall be surrendered by the Secretary of the union when the Registrar decides to withdraw or cancel such certificate under clause (a) or clause (b) of section 10.

Transfer of
registration
of union.

7. (1) The Registrar, on receipt of a notice of removal of the registered office to any State in India other than the State of Jammu and Kashmir, shall forward to the Registrar of the State to which the head office of the trade union has been transferred a copy of all the entries contained in the register prescribed by regula-

tion 4 and a copy of the rules of the union with all amendments thereto.

(2) The Registrar of the State to which the head office of the trade union has been transferred will thereupon enter in his register the particulars relating to the trade union and shall certify the fact of such registration on the certificate issued under regulation 5. The Secretary of the union shall present the certificate to the Registrar for this purpose.

(3) The procedure prescribed in clause (2) above shall be followed in respect of a trade union whose head office has been transferred to the Mysore State:

Provided that, if the name of the trade union the head office of which has been so transferred is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall require such trade union to change its name and shall refuse to act under clause (2) until such change has been made.

8. When the Registrar registers a change of name under sub-section (3) of section 25, he shall certify under his signature at the foot of the certificate issued under regulation 5 that the new name has been registered. The Secretary shall present the certificate to the Registrar for this purpose.

Registration
of change of
name.

9. On receipt of notice of amalgamation under sub-section (1) of section 25 if the head office of the amalgamated trade union is in the Mysore State the Registrar shall consult the Registrars of the trade unions in the State in India so amalgamating, if any, before registering the amalgamated trade union under sub-section (4) of the said section.

Amalgamation
of trade
unions.

When the amalgamated trade union is registered under sub-section (4) of the said section it shall be assigned a new number in the register in Form B and the Registrar shall issue a new certificate in Form C therefor. He shall also note the fact of amalgamation against the entries, if any, relating to the trade unions so amalgamated in the register in Form B and send intimation of the registration of the amalgamated union to the Registrars of the trade unions so amalgamated in other States in India, if any.

Fees.

10. The fee payable for the registration of a trade union shall be Rs. 5.

Amendment of rules.

11. (1) On receiving a copy of the alteration made in the rules of a trade union sent under sub-section (3) of section 28, the Registrar after satisfying himself that the alteration has been made in the manner laid down by the rules of the trade union and is not inconsistent with any of the provisions of the Act, shall register the alteration in the entry relating to the trade union in the register of trade unions prescribed under regulation 4 and deliver to the Secretary of such trade union a copy of the alteration with a certificate appended thereto to the effect that the alteration has been duly registered by him.

(2) The fee payable for registration of alterations of rules shall be Re. 1 for each set of alterations made simultaneously.

Appeals.

12. Any appeal made under sub-section (1) of section 11 shall be filed within sixty days of the date of the order against which the appeal is made.

Dissolution of trade union.

13. (1) Along with the notice of dissolution under sub-section (1) of section 27 the certificate issued under regulation 5 shall be surrendered. When the Registrar registers the dissolution, he shall send an intimation of the fact of such registration under his signature to the Secretary of the trade union.

(2) Where it is necessary for the Registrar, under sub-section (2) of section 27, to distribute the funds of a trade union which has been dissolved, he shall divide the funds in proportion to the amounts contributed by the members on roll at the time of dissolution, by way of subscription to the several funds of the trade union during their membership. In the event of the death of a member of a trade union subsequent to the date of its dissolution but prior to the distribution of funds, the Registrar shall pay the sum payable to each member to his legal representative.

Return.

14. The annual return to be furnished under section 28 shall be submitted to the Registrar by the 31st day of July in each year and shall be in Form E.

Auditors.

15. (1) The annual audit of the accounts of a registered trade union shall be conducted by:

(a) the auditor authorised to audit the accounts of companies registered under the Indian Companies Act, 1913, (Central Act III of 1913); or

(b) where the membership of a trade union did not at any time during the financial year exceed 2,500,

- (i) by any local fund auditor appointed by the State Government, or
- (ii) by the controller of State Accounts, or
- (iii) by a person, who having held an appointment under Government in any audit or accounts department, is in receipt of a pension of not less than Rs. 150 per mensem, or

(c) where the membership of a trade union did not at any time during the financial year exceed 750,

- (i) by any two persons holding office as Magistrates or Judges or as members of any Municipal Council or the Corporation of the City of Bangalore, District Board or Legislative Body, or
- (ii) by any person, who, having held an appointment under Government in any audit or accounts department is in receipt of a pension from Government of not less than Rs. 75 a month, or
- (iii) by any auditor appointed to conduct the audit of Co-operative Societies or by the Registrar of Co-operative Societies or by any Provincial Co-operative organisation recognised by Government for this purpose, or

(d) where the membership of a trade union did not at any time during the financial year exceed Rs. 250 by any two members of the union.

(2) Where the trade union is a federation of unions, and the number of unions affiliated to it at any time during the financial year did not exceed 50, 15 or 5, respectively, the audit of the accounts of the federation may be conducted as if it had not at any time during the year had a membership of more than 2,500, 750 or 250, respectively.

16. Notwithstanding anything contained in regulation 15, no person, who, at any time during the year, was entrusted with any part of the funds or securities Exception.

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 belonging to the trade union shall be eligible to audit the accounts of that Union.

Audit.

17. The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the trade union and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to Form E, indicating separately on that form, under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in this statement shall indicate:

(a) every payment which appears to be unauthorised by the rules of the trade union or contrary to the provisions of the Act,

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,

(c) the amount of any sum which ought to have been but is not brought to account by any person.

Audit of
 political funds.

18. The audit of the political fund of a registered Trade Union shall be carried out along with the audit of the general account of the trade union and by the same auditor or auditors.

Inspection.

19. (1) The register of trade unions maintained in accordance with regulation 4, shall be open to inspection by any person on payment of a fee of annas eight.

(2) Any documents in the possession of the Registrar received from a registered trade union may be inspected by any person on payment of a fee of annas eight for each document inspected.

(3) Documents shall be open to inspection on all days on which the Office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) Copies of any of the documents specified in clause (2) may be obtained from the Registrar on payment of copying charges at such rates as may be fixed by him in that behalf.

SCHEDULE I.

List of Officers.

Title	Name	Age years.	Address	Occupation.

NOTE.—Enter in this Schedule the names of all members of the executive of the Union, showing in column 1 the names of any posts held by them (*e.g.*, President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

SCHEDULE II.

Reference to Rules.

The numbers of the rules making provision for the several matters detailed in column 1 are given in column 2 below:—

Matter 1	Number of rules 2
Name of Union.—	
The whole of the objects for which the Union has been established.	
The whole of the purposes for which the general funds of the Union shall be applicable.	
The maintenance of a list of members ...	
The facilities provided for the inspection of the list of members by officers and members.	
The admission of ordinary members ...	
The admission of honorary or temporary members...	
The conditions under which members are entitled to benefits assured by the rules.	
The conditions under which fine or forfeitures can be imposed or varied.	
The manner in which the rules shall be amended, varied or rescinded.	
The manner in which the members of the executive and other officers of the Union shall be appointed and removed.	
The safe custody of the funds ...	
The annual audit of the accounts ...	
The facilities for the inspection of the account books by officers and members.	
The manner in which the union may be dissolved ...	

338 SCHEDULE III.

(This need not be filled in if the Union came into existence less than one year before the date of application for registration).

Statement of Liabilities and Assets on the day of.....19

Liabilities	Assets
Rs. a. p.	Rs. a. p.
Amount of general fund.	Cash
Amount of political funds.	In hands of Treasurer
Loans from	In hands of Secretary
Other liabilities (to be specified).	In hands of
	In the Bank
	In the Bank
	Securities as per list below:
	Unpaid subscriptions due
	Loans to
	Immovable property Goods and furniture.
	Other assets (to be specified)
Total liabilities	Total assets

LIST OF SECURITIES.

Particulars	Nominal value	Market value	In hands of

Signed

1
2
3
45
6
7

FORM A.

Application for Registration of Trade Union. 337

Dated the.....day of.....

1. We hereby apply for the registration of a trade union under the name of

2. The address of the head office of the Union is

3. The Union came into existence on the day of.....19 .

4. The union is a union of employers/workers engaged in the industry (or profession).

5. The particulars required by section 5(1) (c) of the Indian Trade Unions Act, 1926, are given in Schedule I.

6. The particulars given in Schedule II show the provision made in the rules for the matters detailed in section 6 of the Indian Trade Unions Act, 1926.

7. (To be struck out in the case of unions which have not been in existence for one year before the date of application). The particulars required by section 5(2) of the Indian Trade Unions Act, 1926, are given in Schedule III.

8. We have been duly authorised to make this application,

Signature	Occupation	Address
Signed 1		
2		
3		
4		
5		
6		
7		

*State here whether the authority was given by a resolution of a general meeting of the Union, if not in what other way it was given.

To

The Registrar of Trade Unions for the Mysore State, Bangalore.

238 FORM B.

Register of Trade Unions.

1. Serial Number.
2. Date of registration.
3. (a) Names of the members making the application ;
(b) Occupations of the members making the application ;
(c) Addresses of the members making the application.
4. Name of Trade Union.
5. Address of the head office of Trade Union.
6. Date of establishment of Trade Union.
7. Officers of Trade Union :—

Title
Name
Age
Occupation
Address
8. Signature of the Registrar.
9. (a) Whether provision has been made for a separate fund under section 16 and if so from what date ;
(b) Initials of the Registrar.
10. (a) Date of intimation for alteration of rules ;
(b) Date of registration of alteration of rules and issue of a certified copy thereof ;
(c) Initials of the Registrar.
11. (a) Date of registration of change of address of registered office ;
(b) Address of the Trade Union as changed ;
(c) If the changed address is in any State in India, whether extracts of registration sent to the Registrar of that State.
(d) Initials of the Registrar.
12. (a) Date of registration of change of name ;
(b) Name of the Trade Union as changed ;
(c) Initials of the Registrar.
13. (a) Date of Registration of amalgamation ;
(b) Name of the amalgamated Union ;
(c) Registration number of the amalgamated union ;
(d) Initials of the Registrar.
14. (a) Date of application for cancellation of registration under section 10 (a) ;
(b) Date of giving notice for cancellation or withdrawal under section 10 (b) ;
(c) Date of issue of order withdrawing or cancelling registration ;
(d) Initials of the Registrar.
15. (a) (1) Names of the members applying for dissolution ;
(2) Occupations of the members applying for dissolution ;
(3) Addresses of the members applying for dissolution ;
(b) Date of registration of dissolution and issue of certificate to that effect ;
(c) Number and date of Registrar's Proceedings ordering distribution of funds under section 27(2) if any ;
(d) Initials of the Registrar.

NOTE.—One page shall be allotted for each union,

FORM C.

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Certificate of Registration of Trade Union.

No.

It is hereby certified that the.....
has been registered under the Indian Trade Unions Act, 1926 this day
of..... 195 .

Seal.

*Registrar of Trade Unions
for the Mysore State, Bangalore.*

FORM D.

OFFICE OF THE
REGISTRAR OF TRADE UNIONS
FOR THE MYSORE STATE, BANGALORE.

Place.....

Indian Trade Unions Act, 1926 (XVI of 1926).

Notice before withdrawal or cancellation of certificate of registry
under clause (b) of section 10 of the Act.

.....Trade Union.

Register No.

Notice is hereby given to the abovementioned Trade Union that
it is the intention of the Registrar to proceed on the* date of
.....195 , to withdraw (or cancel) the certificate of
registration of the Trade Union unless cause be shown to the contrary
in the meantime.

The ground of such proposed withdrawal (or cancellation) is that
the certificate of registration has been obtained by fraud (or mistake),
or that the Trade Union has ceased to exist or has wilfully and after
notice from me violated the provisions of the abovementioned Act,
or allowed its rule.....to continue in force which
is/are inconsistent with the provisions of the Act or has rescinded its
rule.....providing for a matter provision
for which is required by section 6.

(The facts should be briefly specified where practicable).

(Signature)

Registrar.

Dated.....day of.....195 .

*The date entered here shall not be less than two months from the date of notice.

To

THE SECRETARY TO

(here enter name of Trade Union).

340 FORM E.

(Annual return prescribed under section 28 of the Indian Trade Unions Act, 1926, for the year ending 31st March 195).

Name of Union.

Registered Head Office.

Number of certificate of registration.

Return to be made by Federations of Trade Unions.

This return need not be made by Federation of Trade Unions.

Number of unions affiliated at beginning of year.

Number of unions joining during the year.

Number of unions disaffiliated at the end of year.

Number of members on books at the beginning of year.

Number of members admitted during the year (add together).

Number of members who left during the year (deduct).

Total number of members on books at the end of the year.

Males.

Females.

Number of members contributing to political fund.

A copy of the rules of the Trade Union, corrected up to the date of despatch of this return, is appended.

Dated the.....

Secretary.

Statement of Liabilities and Assets on the day of 195...

Liabilities	Assets
Rs. a. p.	Rs. a. p.
Amount of General Fund	Cash
Amount of Political Fund	In hands of Treasurer
Loans from	In hands of Secretary
Debts due to	In hands of.....
Other liabilities (to be specified)	In the.....Bank.
	In the.....Bank.
	Securities as per list below.
	Unpaid subscriptions due
	Loans to
	Immovable property.
	Goods and furniture.
	Other assets (to be specified).
Total Liabilities	Total Assets

POLITICAL FUND ACCOUNT: 34 1

	Rs. a. p.		Rs. a. p.
Balance at beginning of year	...	Payments made on objects specified in Section 16 (2) of the Indian Trade Unions Act, 1926 (to be specified)	...
Contributions from members at per member	...	Expenses of managements (to be fully specified)	...
		Balance at the end of year	...
Total	...	Total	...

Treasurer.

AUDITOR'S DECLARATION.

The undersigned, having had access to all the books and accounts of the Trade Union and having examined the foregoing statements and verified the same with the account vouchers relating thereto now sign the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

The enclosed list, prepared by the Union, of the ordinary members who had actually paid their subscriptions to the union as fixed by the rules thereof for the financial year by the 31st March, has been checked by me and a certificate to that effect is appended to the list.

Auditor.

The following changes of officers have been made during the year.

OFFICERS RELINQUISHING OFFICE.

Name	Office	Date of relinquishing office

LIST OF SECURITIES:

Particulars	Nominal value	Market value at date on which accounts have been made up	In hands of

Treasurer.

GENERAL FUND ACCOUNT.

Income	Expenditure
Rs. a. p.	Rs. a. p.
Balance at beginning of year	Salaries, allowances and expenses of officers ...
Contributions from members at.....per member ...	Salaries, allowances and expenses of establishment.
Donations ...	Auditor's fees ...
Sale of periodicals, rules, etc., ...	Legal expenses ...
Interests on investments ...	Expenses in conducting trade disputes ...
Income from miscellaneous sources (to be specified)...	Compensation paid to members for loss arising out of trade disputes ...
	Funeral, old age, sickness, unemployment benefits, etc. ...
	Educational, social and religious benefits ...
	Cost of publishing periodicals ...
	Rents, rates and taxes ...
	Stationery, Printing and postage ...
	Expenses incurred under section 15(11) of the Indian Trade Unions Act, 1926 (to be specified).
	Other expenses (to be specified) ...
	Balance at the end of year.
Total	Total

Officers appointed.

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Name	Age	Office	Address	Occupation	Date of appointment

Secretary.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

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AUTHORITY

(EXTRAORDINARY)

BANGALORE, WEDNESDAY, AUGUST 8, 1951

PART IV

Section I-C.

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 843 —Legis. 5-51-31, dated Bangalore, the 8th August 1951.

Ordered that the Notification No. S.R.O. 1125, dated the 24th July 1951, of the Ministry of Law amending the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

New Delhi, the 24th July 1951.

S.R.O. 1125.—In exercise of the powers conferred by section 28 of the Representation of the People Act, 1950 (XLIII of 1950), the Central Government, after consulting the Election Commission, hereby makes the following further

amendments in the Representation of the People (Preparation of Electoral Rolls) Rules, 1950, namely :—

1. After rule 5 of the said Rules, the following rule shall be inserted, namely :—

“ 5A. *Notice inviting applications for registration in the electoral rolls for graduates' and teachers' constituencies.*—(1) For the purpose of the preparation of the electoral roll for a graduates' constituency or a teachers' constituency for elections to the Legislative Council of any State, the Chief Electoral Officer for the State, in the case of every such electoral roll first prepared under the Act, shall, as soon as may be after this rule comes into force, and in the case of every such roll subsequently prepared under the Act shall, before the preparation of such roll is taken in hand, cause a notice in Form IV-A to be published inviting every person who is qualified to be registered in the electoral roll for the constituency under sub-section (5) of section 27 of the Act and who desires to be so registered to submit an application in Form VII to the Electoral Registration Officer of the said constituency within the time to be specified in that behalf in the notice.

(2) Every notice issued under sub-rule (1) shall be published in such manner and at such place as the Election Commission may direct, and the time to be specified in the notice within which the application is to be submitted shall not be less than fourteen days from the publication of the notice ”.

2. In sub-rule (2) of rule 18 of the said Rules, for the words, brackets and figures “ The Electoral Registration Officer or any person employed by him under sub-section (2) of section 22 of the Act may also correct any mis-spellings which he may discover in the electoral roll after the decision of the Revising Authority has been communicated to the Electoral Registration Officer ” the following shall be substituted, namely :—

“ The Electoral Registration Officer also may, at any time before the final publication of the electoral roll under rule 19, either himself correct any clerical or printing errors which he may discover in the electoral roll or cause such correction to be made in the roll by any person employed by him under sub-section (2) of section 22 of the Act.”

3. After Form IV appended to the said rules the following form shall be inserted, namely :—

FORM IV-A

NOTICE

(Rule 5-A)

For the purpose of preparation of the electoral rolls for the Graduates'/Teachers' constituencies for elections to the Legislative Council of the State of ———, every person who is qualified to be registered in the electoral roll for any of the said constituencies under sub-section (5) of section 27 of the Representation of the People Act, 1950 (XLIII of 1950) and who desired to be so registered is invited to submit

an application in Form VII to the Electoral Registration Officer of the constituency in the electoral roll for which he desires to be registered so as to reach the Electoral Registration Officer not later than the _____ day of _____ 195

_____(Place) _____ Chief Electoral Officer,
Dated _____ State.

Note.—Copies of Form VII will be supplied free by the Chief Electoral Officer or the Electoral Registration Officer of the constituency concerned on application.

THE REPRESENTATION OF THE PEOPLE ACT, 1950.

Section 27.—(3) For the purpose of elections to the Legislative Council of a State in the graduates' constituencies and the teachers' constituencies, the State Government concerned may, with the concurrence of the Election Commission, by notification in the Official Gazette, specify—

(a) the qualifications which shall be deemed to be equivalent to that of a graduate of a university in the territory of India; and

(b) the educational institutions within the State not lower in standard than that of a secondary school.

(4) The provisions of sections 15, 16, 18, 20, 22, 23 (excluding the proviso), 24 and 25 shall apply in relation to Council constituencies as they apply in relation to Parliamentary constituencies.

(5) Subject to the foregoing provisions of this section,—

(a) every person who on the qualifying date was a member of any such local authority within a local authorities' constituency as is referred to in sub-section (2) shall be entitled to be registered in the electoral roll for that constituency;

(b) every person who on the qualifying date was ordinarily resident in a graduates' constituency and has, for at least three years before that date, been either a graduate of a university in the territory of India or in possession of any of the qualifications specified under clause (a) of sub-section (3) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency; and

(c) every person who on the qualifying date, was ordinarily resident in a teachers' constituency, and has, within the six years immediately before that date for a total period of at least three years, been engaged in teaching in any of the educational institutions specified under clause (b) of sub-section (3) by the State Government concerned shall be entitled to be registered in the electoral roll for that constituency.

(6) For the purpose of this section, the qualifying date in the case of every electoral roll shall be the 1st day of April of the year in which the roll is prepared.

[F.10/51-C]

S. N. MUKHERJEE, Joint Secy.

PART IV

Section I-C

RULES, ORDERS AND NOTIFICATIONS, UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 95—Legis. 11-51-7, dated Bangalore, 18th April 1951.

Ordered that the accompanying Adaptation of Laws (Third Amendment) Order, 1951 (C.O. 29) published in the *Gazette of India*, Part II, Section 3, dated the 4th April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA

MINISTRY OF LAW.

NOTIFICATION

New Delhi, the 4th April, 1951.

S.R.O. 508.—The following Order made by the President is published for general information:—

C.O. 29.

THE ADAPTATION OF LAWS (THIRD AMENDMENT) ORDER,
1951

WHEREAS by clause (2) of article 372 of the Constitution of India the President is empowered by order to make such adaptations and modifications of any law in force in the territory of India, whether by way of repeal or amendment, as may be necessary or expedient for the purpose of bringing the provisions of such law into accord with the provisions of the Constitution, and to provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made;

NOW, THEREFORE, in exercise of the powers conferred by the said article and of all other powers enabling him in that behalf, the President is pleased to make the following Order, namely :—

1. (1) This Order may be called the Adaptation of Laws (Third Amendment) Order, 1951.

(2) It shall be deemed to have come into force on the 26th day of January 1950.

2. In paragraph 2 (1) of the Adaptation of Laws Order, 1950, (hereinafter referred to as "the Principal Order"),—

(i) in clause (b), sub-clauses (ia) and (ib) shall be omitted;

(ii) in clause (c) the words "but does not include any existing Madras or Bombay law" shall be omitted;

(iii) in clause (e), the words "existing Madras law, existing Bombay law" shall be omitted;

(iv) clauses (f) and (g) shall be omitted.

3. In the heading of Part 1 and paragraph 3 of the Principal Order for the words "existing Central, Madras and Bombay laws" the words "existing Central and Provincial laws" shall be substituted.

4. In paragraphs 4 (1), 4(2), 5, 6 (1), 8 and 10, for the words "the existing Central, Madras or Bombay law" the words "existing Central or Provincial law" shall be substituted.

5. In column 1 of the Table below paragraph 4 (1) of the Principal Order, for the words "the United Provinces" the words and bracket

"The United Provinces	}
United Provinces	

shall be substituted.

6. Part II of the Principal Order shall be omitted; and Parts III and IV shall be renumbered as Parts II, and III respectively; paragraph 18 shall be renumbered as paragraph 11, and the subsequent paragraphs renumbered accordingly.

7. The First, Third, Seventh and Ninth Schedules to the Principal Order shall be modified as directed in the Schedule A appended to this Order.

8. After the Tenth Schedule to the Principal Order there shall be added the Schedules set out in Schedule B appended to this Order.

In the direction relating to section 18 of the Indian Arms Act, 1878 (XI of 1878) for "States" substitute "the States".

To the direction relating to clause (b) of section 20 of the Indian Trusts Act, 1882 (II 1882) add—

"and 'Governor-General' and 'Province' shall stand unmodified.

After the direction relating to section 18 of the Presidency Small Cause Courts Act, 1882 (XV of 1882) insert—

"Section 19.—In clause (b) omit 'the Crown Representative'."

In the directions relating to the Indian Railways Act, 1890 (IX of 1890), insert—

Section 33.—Omit, "the general controlling authority".

Section 47.—In sub-section (1) for "any Provincial Government or the Government of any Acceding State" substitute "or any State Government".

Section 49.—For "any general controlling authority" substitute "the Central Government".

After the directions relating to the Indian Fisheries Act, 1897 (IV of 1897) insert—

"The Reformatory Schools Act, 1897.

(VIII of 1897)

Section 17.—In clause (2) omit "of whom two at least shall be Natives of India".

In the directions relating to the Code of Criminal Procedure, 1898 (V of 1898)—

(i) to the directions relating to section 194, add—

"and in clause (a) of sub-section (2) 'His Majesty's Attorney-General' and 'the Crown' shall stand unmodified";

(ii) after the direction relating to sections 198 and 199, insert—

Sections 211, 216, 218 and 226.—For "Clerk of the Crown" substitute "Clerk of the State".

After the direction relating to the Church of Scotland Kirk Sessions Act, 1899 (XXIII of 1899) insert—

"The Central Provinces Court of Wards Act, 1899.

(XXIV of 1899)

After section 40, insert—

'41. *Application of the Act to estates of Rulers of Indian States.*—The powers and functions conferred on the State Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be the powers and functions of the Central Government."

After the directions relating to the Prisoners Act, 1900 (III of 1900) insert—

"The Punjab Alienation of Land Act, 1900.

(XIII of 1900)

This Act shall stand repealed."

Before the direction relating to section 3 of the Indian Ports Act, 1908 (XV of 1908), insert—

"Section 2.—In clause (i) for "His Majesty" substitute "the Central Government or a State Government".

SCHEDULE A 330

(See paragraph 7)

I.—Modifications to the First Schedule to the Principal Order.

After the direction relating to section 2 of the Bombay Coasting-Vessels Act, 1838, (XIX of 1838) insert—

“Sections 4, 5 and 6.—For “Master-Attendant” substitute “Principal Officer, Mercantile Marine Department”.

To the direction relating to section 5 of the Indian Registration of Ships Act, 1841 (X of 1841) add—

“and for “subject as aforesaid” substitute “a citizen of India”.”

After the direction relating to the European Deserter's Act, 1856 (XI of 1856) insert—

“The Bengal Chaukidari Act, 1856.

(XX of 1856)

Section 56.—For “suspend or dismiss” substitute “suspend or subject to the provisions of article 311 of the Constitution, dismiss”.

After the direction relating to the State Prisoner's Act, 1858 (III of 1858) insert—

“The Madras District Police Act, 1859.

(XXIV of 1859)

Section 10.—For “Subject to such rules” substitute “Subject to the provisions of article 311 of the Constitution and to such rules”.

Section 44.—For “as hereinbefore provided” substitute “as provided by law”.

In the second paragraph directed to be substituted in section 230 of the Indian Penal Code (XLV of 1860) for “had been so stamped” substitute “has been so stamped”.

After the directions relating to the Indian Penal Code (XLV of 1860) insert—

“The Police Act, 1861.

(V of 1861)

Section 7.—For “Subject to such rules” substitute “Subject to the provisions of article 311 of the Constitution, and to such rules”.

After the direction relating to section 3A of the Pensions Act, 1871 (XXIII of 1871) insert—

“Section 4.—For “British or” substitute “Government or by”.

After the directions relating to the Indian Oaths Act, 1873 (X of 1873) insert—

“The N. W. Provinces Village and Road Police Act, 1873.

(XVI of 1873)

Section 10.—For “The Magistrate” substitute “Subject to the provisions of article 311 of the Constitution, the State Government, or the Magistrate”.

To the directions relating to the Inland Steam-Vessels Act, 1917 (I of 1917), add—

Section 72-A.—“Government of a Province in Pakistan” shall stand unmodified.

After the direction relating to the Destruction of Records Act, 1917 (V of 1917) insert—

The Patna University Act, 1917.

(XVI of 1917)

Section 11.—For the “Provinces” substitute “India”.

In the directions relating to the Indian Red Cross Society Act, 1920 (XV of 1920);—

(i) after the direction relating to section 1, insert—

Section 5.—In clause (d) omit “provincial and”;

(ii) for the direction relating to section 8, substitute—

Section 8.—In sub-section (1) for “any of the Provinces, States and other parts of India and Pakistan” substitute “any of the States in India or in any part of Pakistan”; in sub-section (2) for “any province, State or other part of India”, at both places, substitute “any part of India”; and in sub-section (4) for “the Provinces, States and other parts of India and Pakistan” substitute “any State in India or any part of Pakistan”.

To the direction relating to section 17 of the Indian Income-tax Act, 1922 (XI of 1922) add—

“and in sub-section (7) for “Act of the Central Legislature.” substitute “Central Act”.

In the directions relating to the Cotton Cess Act 1923, (XIV of 1923) substitute “The Indian Cotton Cess Act, 1923” for “The Cotton Cess Act, 1923”; and for the direction relating to section 4, substitute—

Section 4.—In clause (i) for “Imperial” substitute “Indian”; and for clause (ix) substitute—

“(ix) seven persons nominated respectively by the Governments of the following Part B States, namely, Hyderabad, Madhya Bharat, Mysore, Patiala and East Punjab States Union, Rajasthan, Saurashtra and Travancore-Cochin”.

Section 5.—In sub-section (2) for “Imperial” substitute “Indian”.

Section 14.—Omit “His Majesty for the purposes of”.

After the direction relating to section 3 of the Cantonments Act, 1924 (II of 1924) insert—

“Section 13.—In clause (e) of sub-section (4), for sub-clause (iii), substitute—

“(iii) in cantonments of which the civil population does not exceed five thousand, one military officer.”

To the direction relating to section 2 of the Contempt of Courts Act, 1926 (XII of 1926) add—

“and omit sub-section (2)”.

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For the direction relating to section 4 of the Indian Lac Cess Act, 1930 (XXIV of 1930), substitute—

"Section 4.—In sub-section (5) for "Imperial Entomologist" substitute "Head of the Entomology Division in the Indian Institute of Agricultural Research" and in sub-section (8) for "the Provinces" substitute "India"."

In the directions relating to the Drugs Act, 1940 (XXIII of 1940), insert—

"Section 5.—In clause (iv) of sub-section (2), for "Imperial" substitute "Indian"."

For the directions relating to the Indian Oilseeds Committee Act, 1946 (IX of 1946) substitute—

"The Indian Central Oilseeds Committee Act, 1946

(IX of 1946).

Section 3.—For the "Provinces" where the expression occurs for the first time, substitute "the territories to which this Act extends"; and where the expression occurs for the second and the third times, substitute "the said territories".

Section 4.—In clause (a) for "Imperial" substitute "Indian";

In clause (g) for "the other Provinces, and the Acceding States" substitute "the rest of India".

In clause (s) for "the Central Legislature" substitute "Parliament".

Section 7.—In sub-section (1) for "Imperial" substitute "Indian".

Section 16.—For "the Central Legislature" substitute "the House of the People" and omit "His Majesty for the purposes of".

To the direction relating to section 6 of the Prevention of Corruption Act, 1947 (II of 1947), add—

"and in clauses (a) and (b) omit "or some higher authority"."

To the directions relating to the National Cadet Corps Act, 1948 (XXXI of 1948), add—

"Section 13.—In clause (1) of sub-section (2) omit "Provincial"."

After the direction relating to sections 8, 21 and 36 of the Employees' State Insurance Act, 1948 (XXXIV of 1948) insert—

"Section 17.—In sub-section (3), for "Federal" substitute "Union"."

After the direction relating to section 5 of the Factories Act, 1948, (LXIII of 1948) insert—

"Section 78.—In sub-section (2) for "Federal Railway" substitute "Government Railway"."

II.—Modifications to the Third Schedule to the Principal Order.

After the directions relating to the Ajmer Laws Regulation, insert—

"The Assam Local Rates Regulation, 1879".

(III of 1879)

Section 2.—For "the permanently settled portion of Sylhet" wherever the words occur, substitute "the permanently settled portion of Cachar"; and

In clause (4) for "whole of that district except the Jaintia Perganas", substitute "Karimganj Sub-Division of that District".

After the directions relating to the Garo Hills Regulation, 1882, insert—

"The Assam Land and Revenue Regulation, 1886.

(I. of 1886).

Sections 3 and 72.—In clause (c) for "District of Sylhet", wherever the words occur, substitute "District of Cachar".

The Sylhet Jhum Regulation, 1891.

(III of 1891)

Section 1.—In sub-section (2) for "District of Sylhet", substitute, "District of Cachar".

III.—Modifications to the Seventh Schedule to the Principal Order.

In the direction relating to the Madras City Police Act, 1888 (Madras Act III of 1888) insert—

Section 11.—For "subject to the control of the State Government" substitute "subject to the provisions of article 311 of the Constitution and to the control of the State Government".

Section 71-K.—For the opening paragraph, substitute—

"If any person arrested by a Police-officer for an offence punishable under section 71-A has, in the opinion of such Police-officer, not attained the age of sixteen years, he shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. On such production, the Magistrate shall without delay direct the person to be taken before a Juvenile Court established under sub-section (1) of section 36 of the Madras Children Act, 1920. The person shall then be dealt with under the provisions of that Act as modified by the provisions of this section."

After the direction relating to section 5 of the Madras Prevention of Begging Act, 1945 (Madras Act XIII of 1945), insert—

Section 12.—In sub-section (1) for the opening paragraph substitute—

"If any person arrested by a Police-officer for an offence punishable under section 3 has, in the opinion of such Police-officer, not attained the age of sixteen years, he shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. On such production the Magistrate shall without delay direct the person to be taken before a Juvenile Court established under sub-section (1) of section 36 of the Madras Children Act, 1920. The person shall then be dealt with under the provisions of that Act as modified by the provisions of this section."

x	x	x	x	x
x	x	x	x	x
x	x	x	x	x

RAJENDRA PRASAD,

President.

K. V. K. SUNDARAM,

Secretary.

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NOTIFICATION.

No. L.D. 621—Legis. 6-51-8, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 797, dated the 18th May 1951, of the Ministry of Works, Production and Supply under the Petroleum Act, 1934 (XXX of 1934) applying the provisions of certain sections to Cinematograph Films having a nitro-cellulose base published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 18th May 1951.

S.R.O. 797.—In exercise of the powers conferred by sub-section (1) of section 30 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby applies to Cinematograph Films having a nitro-cellulose base the provisions of sections 2 to 4, 12 to 14, 23 to 29 and section 31 of the said Act in all Part B States, except the State of Jammu and Kashmir.

[No. M-128(9) (vi).]

N. P. DUBE, Under Secy.

NOTIFICATION.

No. L.D. 622—Legis. 6-51-9, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 799, dated the 18th May 1951, of the Ministry of Works, Production and Supply under the Petroleum Act, 1934 applying certain provisions of the Act to Calcium Phosphide published in the *Gazette of India*,

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Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 18th May 1951.

S.R.O. 799.—In exercise of the powers conferred by sub-section (1) of section 30 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby applies to Calcium Phosphide the provisions of sections 2 to 4, 12 to 14, 23 to 29 and section 31 of the said Act in all Part B States except the State of Jammu and Kashmir.

[No. M-128(9) (viii).]

N. P. DUBE, Under Secy.

NOTIFICATION.

No. L.D. 623—Legis. 6-51-10, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 798, dated the 18th May 1951, of the Ministry of Works, Production and Supply under the Petroleum Act, 1934, applying certain provisions of the Act to Carbide of Calcium, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 18th May 1951.

S.R.O. 798.—In exercise of the powers conferred by sub-section (1) of section 30 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby applies to Carbide of Calcium the provisions of sections 2 to 4, 12 to 14, 23 to 29 and section 31 of the said Act in all Part B States except the State of Jammu and Kashmir.

[No. M-128(9) (vii).]

N. P. DUBE, Under Secy.

NOTIFICATION 356

No. L.D. 624—Legis. 5-51-12, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification Nos. S.R.O. 788 and 789, dated the 11th May and 19th May 1951, respectively, of the Ministry of Communications amending the Indian Post Office Rules, 1933, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.
MINISTRY OF COMMUNICATIONS.

(POST AND TELEGRAPHS.)

New Delhi, the 11th May 1951.

S.R.O. 788.—In exercise of the powers conferred by section 21 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby makes the following further amendment to the Indian Post Office Rules, 1933, namely:—

In sub-rule (1) of rule 35 of the said Rules the following words shall be added at the end, namely:—

“If a parcel contains cloth or woollen materials, it must be packed in a strong wrapper with an outer covering of stout cloth. In the case of a parcel containing other articles, it must be packed in a metal container or wooden case according to the nature of the article.”

[No. C-40-114/50.]

New Delhi, the 19th May 1951.

S.R.O. 789.—In exercise of the powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

For rule 14-A of the said Rules the following shall be substituted:—

“14-A. Should a letter card be posted infringing any of the conditions laid down in Rules 11-A and 13(5) or, without the postage having been prepaid in full, it shall be treated as a letter and double the deficiency at letter postage rate shall be recovered.”

[No. C-40-20/51.]

K. V. VENKATACHALAM, Dy. Secy.

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NOTIFICATION.

No. L.D. 625—Legis. 5-51-11, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 784, dated the 19th May 1951, of the Ministry of Natural Resources and Scientific Research amending the Mineral Concession Rules, 1949, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF NATURAL RESOURCES AND SCIENTIFIC RESEARCH.

New Delhi, the 19th May 1951.

S.R.O. 784.—In exercise of the powers conferred by section 5 of the Mines and Minerals (Regulation and Development) Act, 1948 (LIII of 1948), the Central Government hereby directs that the following amendment shall be made in the Mineral Concession Rules, 1949, namely :—

To clause (i) of sub-rule (1) of rule 41 of the said Rules, the following provisos shall be added namely :—

“ Provided that such rates shall be liable to be revised with effect from the beginning of the year 1955 and thereafter once in every 10 years ;

Provided further that, in the case of a lease executed after the coming into force of these rules, the lessee shall not be required to pay, during the currency of his lease, a rate of royalty exceeding one and a half times the original rate specified in his lease.”

[No. M. II-159(4).]

T. GONSALVES, Dy. Secy.

NOTIFICATION **S 8**

No. L.D. 626—Legis. 5-51:10, dated Bangalore, 26th June 1951.

Ordered that the accompanying Notification No. S.R.O. 786, dated the 12th May 1951, of the Ministry of Rehabilitation amending the Displaced Persons' (Verification of Claims) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

Delhi, the 12th May 1951.

S.R.O. 786.—In exercise of the powers conferred by section 16 of the Displaced Persons' (Claims) Act, 1950 (XLIV of 1950), the Central Government hereby directs that the following amendment shall be made in the Displaced Persons' (Verification of Claims) Rules, 1950.

For rule 22 of the said rules the following rule shall be substituted namely :—

22(i) A fee of Re. 0-8-0 shall be levied for supplying to a claimant the first copy of a final order made by a Claims Officer.

(ii) A fee of Re. 1 shall be levied for supplying to a claimant a first copy of the final order made by the Riving Authority if the application is made at or before the hearing.

(iii) (a) The following fee shall be charged where an application for copies is made to the Central Claims Office :—

First 200 words or under Re. 1.

Every additional 100 words or fraction thereof Re. 0-8-0.

(b) An additional fee of Re. 1 shall be charged for a copy urgently required.

(c) A search fee at the rate of Re. 1 shall be levied if no Index number or Registration number is given in the application for a copy.

(iv) The fee for copies should be paid in the form of Indian Postal Order crossed in the name of Joint Chief Claims Commissioner and attached to the application for a copy.

[No. 2(6)/CCC/P-50.]

S. B. CAPOOR,

Joint Chief Claims Commissioner and
Joint Secy. to the Govt. of India.

NOTIFICATION 359

No. L.D. 807—Legis. 6-51-17, dated Bangalore, the 27th July 1951.

Ordered that Notification No. 7 (2) Genl—AE—50, dated 6th July 1951 of the Ministry of Rehabilitation under Section 15 of the Displaced Persons (Claims) Act, 1950, published in the *Gazette of India*, Part I, Section 1, dated the 14th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

New Delhi, the 6th July 1951.

No. 7(2) Genl./AE/50.—In exercise of the powers conferred by sub-section (1) of section 15 of the Displaced Persons (Claims) Act, 1950 (XLIV of 1950), the Central Government hereby directs that the powers conferred upon it under sub-section (1) of section 4 of the said Act shall, in relation to the appointment of Claims Officers mentioned in the sub-section, be also exercisable by the Chief Claims Commissioner.

S. PRASADA, *Dy. Secy.*

NOTIFICATION.

No. L.D. 808—Legis. 6-51-18, dated Bangalore, the 27th July 1951.

Ordered that Notification No. S.R.O. 1005 and 1006, dated the 30th June 1951 of the Ministry of Commerce and Industry under the Iron and Steel (Control of Production and Distribution) Order, 1941—Schedule of Prices published in the *Gazette of India*, Part II, Section 3, dated the 30th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA 360
MINISTRY OF COMMERCE AND INDUSTRY.

New Delhi, the 30th June 1951.

S.R.O. 1005.—The following Notification issued by the Iron and Steel Controller under clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941 is published for general information :—

" NOTIFICATION

In exercise of the powers conferred by Sub-Clause (1) of Clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Iron and Steel Controller is pleased to notify the following amendments to the late Ministry of Industry and Supply Notification No. I (1)-2(17), dated the 23rd January 1950, namely,—

2. For the existing 'Schedule of Prices' the following shall be substituted :—

Schedule of Prices.

Serial No.	Size	Sheetage	Weight Lbs.	'B' ham Gauge	Rate per box f.o.r. Works Siding, Tata-nagar	
<i>List 'A'—Coke Unassorted Tinplate</i>						
A-2	28×20	...	28	171	20	Rs. a. p.
A-6	28×20	...	50	250	22	57 1 0
A-8	34×25	...	25	185	22	80 0 0
A-15	34×25	...	25	146	24	62 0 0
A-16	28×20	...	50	200	24	52 5 0
A-18	25×17	...	50	146	24	68 10 0
A-24	28×20	...	56	196	25	50 1 0
A-27	34×25	...	56	255	26	70 12 0
A-28	28×20	...	56	168	26	93 9 0
A-35	28×20	...	56	154	27	61 7 0
A-40	28×20	...	56	140	28	57 3 0
A-43	18½×14	...	124	110	30	51 1 0
A-44	20×10	...	225	156	30	42 7 0
A-45	20×14	...	112	108	30	60 2 0
A-48	28×20	...	112	216	30	41 9 0
A-49	28½×24½	...	112	269	30	83 2 0
A-50	33×20	...	56	127	30	103 8 0
A-51	28×20	...	112	200	30.6	49 15 0
A-52	20×1	...	112	100	30.6	80 11 0
A-53	28×20	...	112	180	31.6	40 6 0
A-55	28×20	...	112	160	32.5	76 2 0
A-57	28×20	...	112	140	34	71 6 0
A-58	20×14	...	112	70	34	69 0 0
						34 8 0

Serial No.	Size	Sheetage	Weight Lbs.	B'ham Gauge	Rate per box f.o.r. Works Siding, Tatanagar
<i>List 'B'—Unassorted Terneplate</i>					
B-2	28×20	...	50	250	22 53 8 0
B-3	28×20	...	50	217	23 47 11 0
B-5	28×20	...	50	200	24 44 15 0
B-6	28×20	...	56	196	25 45 4 0
B-8	28×20	...	56	168	26 40 5 0
B-10	31×23	...	56	219	26 53 13 0
B-11	14×11	...	112	95	26 23 0 0
B-12	13½×10¾	...	112	90	26 21 12 0
B-14	28×20	...	56	154	27 38 4 0
B-19	28×20	...	56	140	28 34 12 0
B-21	28×20	...	112	216	30 59 10 0
B-24	18¾×14	...	124	110	30 30 15 0

List 'C'—P.C.R.C.A. Blackplate.

C-1	34×25	...	25	232	20 46 4 0
C-2	28×20	...	28	171	20 33 12 0
C-6	28×18	...	50	219	22 44 15 0
C-7	28×20	...	50	250	22 50 9 0
C-13	28×20	...	50	217	23 45 5 0
C-16	34×26	...	25	146	24 32 10 0
C-17	33×24	...	50	272	24 59 0 0
C-18	28×20	...	50	200	24 42 10 0
C-20	25×20	...	50	172	24 37 3 0
C-21	25×17	...	50	146	24 31 10 0
C-26	28×20	...	56	196	25 43 3 0
C-28	34×25	...	56	255	26 59 6 0
C-29	28×20	...	56	168	26 38 11 0
C-32	22×14	...	112	189	26 43 7 0
C-36	28×20	...	56	154	27 36 12 0
C-37	28×22	...	56	170	27 40 7 0
C-41	28×20	...	56	140	28 33 9 0
C-44	18¾×14	...	124	110	30 30 1 0
C-45	20×10	...	225	156	30 41 8 0
C-46	20×14	...	112	108	30 29 1 0
C-49	28×20	...	112	216	30 58 3 0
C-52	28×20	...	112	200	30 57 2 0
C-54	28×20	...	112	180	31 55 13 0
C-55	20×14	...	112	90	31 27 14 0
C-56	28×20	...	112	160	32 54 8 0
C-58	28×20	...	112	140	34 53 4 0
C-59	20×14	...	112	70	34 26 10 0

SUPPLEMENTARY LIST OF ODD SIZES

Coke Unassorted Tinplate.

D-4	29½×21	...	50	215	24 72 11 0
D-12	32 3/8×22	...	112	275	30 106 0 0
D-13	31¾×21¼	...	56	130	30 51 1 0

Serial No.	Size	Sheetage	Weight Lbs.	'B'ham Gauge	Rate per box f.o.r. Works Siding, Tatanagar		
					Rs.	a.	p.
D-14	30×21	112	242	30	93	1	0
D-15	28 $\frac{3}{4}$ ×14 $\frac{1}{8}$	112	152	30	58	7	0
D-17	26×18 $\frac{3}{4}$	112	193	30	74	6	0
D-18	26 $\frac{3}{4}$ ×16 $\frac{1}{2}$	112	169	30	65	1	0
D-21	1 $\frac{3}{4}$ ×12	144	110	30	42	6	0
D-22	14×7	332	110	30	42	6	0
D-23	32 $\frac{1}{2}$ ×21	112	244	30·6	98	9	0
D-25	30 $\frac{1}{2}$ ×24 $\frac{1}{2}$	112	267	30·6	107	12	0
D-34	18 $\frac{3}{4}$ ×14	172	153	30	59	0	0
D-36	12 $\frac{1}{2}$ ×9	282	110	30	42	6	0
D-37	30×20	112	193	31·6	81	11	0
D-38	28×24 $\frac{1}{2}$	112	262	30	100	14	0
D-41	28 $\frac{3}{8}$ ×17 $\frac{3}{8}$	112	158	31·6	66	13	0
D-42	25×17	112	255	26	91	3	0
D-43	25×17	50	185	22	59	4	0
D-44	31×23	56	193·5	27	72	0	0
D-45	22×14	112	170	27	61	13	0
<i>Charcoal No. 1 Tinplate.</i>							
E-1	28 $\frac{1}{4}$ ×20 $\frac{3}{4}$	56	201	25	85	8	0
E-2	28 $\frac{5}{8}$ ×18 $\frac{3}{4}$	56	184	25	78	5	0
E-5	28×20	56	196	25	83	2	0
<i>Best Coke Tinplate.</i>							
G-1	28 $\frac{3}{8}$ ×23 $\frac{5}{16}$	112	213	31·6	97	8	0
G-3	28 $\frac{1}{2}$ ×21 $\frac{3}{4}$	112	199	31·6	91	2	0
G-4	27 $\frac{3}{4}$ ×23 $\frac{7}{16}$	112	232	30·6	100	14	0
G-5	25 $\frac{7}{16}$ ×22 $\frac{1}{8}$	112	201	30·6	87	7	0
G-6	30×27 $\frac{15}{16}$	112	269	31·6	123	8	0
G-7	33×22	28	176	22	60	11	0
<i>Unassorted Tèrneplate.</i>							
I-3	34×25	25	146	24	34	6	0
I-4	25×17	50	146	24	33	4	0
I-6	17×12 $\frac{1}{2}$	100	146	24	32	14	0
I-7	34×25	56	255	26	61	14	0
I-8	22 $\frac{3}{4}$ ×16	112	224	26	53	9	0
I-9	22×14	112	189	26	45	5	0
I-23	16 $\frac{3}{8}$ ×11 $\frac{1}{2}$	112	115	26	27	15	0
I-26	34×25	25	185	22	41	5	0
I-33	32×17	50	236	22	51	6	0
I-34	17×16	100	236	22	51	1	0
I-38	25×17	112	255	26	60	10	0
I-39	30×22	25	144	22	31	13	0
I-24	28×11 $\frac{1}{4}$	112	192	26	46	6	0
<i>P. C. R. C. A. Blackplate.</i>							
J-21	11 $\frac{3}{4}$ ×14	172	153	30	41	8	0

2. In para (a) of Part II.—‘Sales by Controlled Stockholders’, for ‘Rs. 50 per ton’ read ‘Rs. 40 per ton’;

The above amendments shall take effect from the 1st July, 1951.

[SC (A)—2(62)/51]

S.R.O. 1006.—The following Notification issued by the Iron and Steel Controller under clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, is published for general information:

“NOTIFICATION

In exercise of the powers conferred by Sub-clause (1) of clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Iron and Steel Controller is pleased to notify the following amendment to the late Ministry of Industry and Supply Notification No. I(I)1-(146), dated the 25th May 1949, as amended from time to time, *viz.*,—

For the existing ‘Schedule of Base Prices’, the following shall be substituted:

Schedule of Base Prices.

(Prices in Rupees per ton)

Base Price Item No.	Materials	Maximum Base Prices at Calcutta, Bombay and Madras					
		Column I		Column II		Column III	
		For sales by Registered Producers		For sales by Controlled Stockholders		For sales by all persons other than Registered Producers and Controlled Stockholders	
		Un-tested	Tested	Un-tested	Tested	Un-tested	Tested
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
A.—BARS STRUCTURALS AND PLATES, Etc.							
1	Bars and Rods (Rounds and Squares below 3" and Flats up to and including 5" wide).	303	333	328	353	348	383
2	Bars other sizes (Rounds and Squares 3" and above and Flats over 5" wide).	286	316	311	346	331	366
3	Structurals, Bearing Plates and Crossing Sleeper Bars.	295	325	320	355	340	375
4	Plates 3/8" and up	324	357	349	387	369	407
5	Plates 1/8" unannealed	345	378	370	408	390	428
6	Plates 1/8" annealed or Black Sheets 10G	347	380	372	410	392	430
7	Chequered plates 1/4" and up	360	388	385	418	405	438
8	Boiler Plates 3/8" and up	...	378	...	408	...	428
9	Black Sheets Gauge 11-14	357	387	387	417	407	327
10	Galvanised Corrugated Sheets G. 24 in lengths 6/10 ft.	545	545	575	575	595	595
11	(a) Heavy Rails 50/100 lbs.	...	291	...	316	...	386
	(b) Heavy Rails Second class	281	...	306	...	326	...
12	Fish Plates for Heavy Rails	344	382	369	412	389	432
13	Light Rails 30 lbs. and below	316	...	336	...	357	...
14	Fish Plates for Light Rails	422	...	447	...	467	...
15	Tool Steel Bars (TSC 2/2A)	...	445	...	475	...	495
16	Bullet proof Plates Specn. It 70 C	...	760	...	790	...	810
17	Shell steel Blooms 8" and 10" Square	...	354	...	384	...	404
18	Shell Steel Bars 5/8" to 6" dia. and Gothic Section.	...	371	...	401	...	421

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Schedule of Base Prices.

(Prices in Rupees per ton)

Base Price Item No.	Materials	Maximum Base Prices at Calcutta, Bombay and Madras					
		Column I		Column II		Column III	
		For sales by Registered Producers		For sales by Controlled Stockholders		For sales by all persons other than Registered Producers and Controlled Stockholders	
		Un-tested	Tested	Un-tested	Tested	Un-tested	Tested
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
19	(a) Blooms and Slabs	182	212	207	242	227	262
	(b) Billets	205	215	230	245	250	265
20	Box Strapping—						
	(a) 3/4" x 24 B.G.	1,010	...	1,045	...	1,065	...
	(b) 1/2" x 24/26 B.G.	1,060	...	1,095	...	1,115	...
21	Baling Hoops in Coils over 100' in length—						
	(a) 3/4" x 19/20 B.G.	645	...	680	...	700	...
	(b) 1" x 1/16"	525	...	560	...	580	...
	B.—WIRE AND WIRE PRODUCTS.						
31	Hard Bright Wire 2 to 3 S.W.G.	495	545	530	580	555	605
32	Annealed Wire 2 to 3 S.W.G.	545	595	580	630	605	655
33	Galvanised Wire 2 to 3 S.W.G.	655	705	690	740	715	765
34	Telegraph Wire 2 to S.W.G.	...	785	...	820	...	845
35	Barbed Wire to 3 S.W.G.	730	...	765	...	815	...
36	Brass Coated Stapling Wire 2 to 3 S.W.G.	695	645	630	680	655	705
37	Wire Nails 4 to 6 S.W.G.	920	...	635	...	735	...
38	Large Headed or Clout Nails—Basis 1 1/2" x 14" S.W.G.	...	...	960	...	1,060	...
39	Spring Steel Wire (.45 per cent to .55 per cent carbon content).	...	1,495	...	1,565*	...	2,015
40	Signal Wire Galvanised 48 to 54 tons. T.S.	...	1,835	...	1,905*	...	2,355
41	Metal Spraying Wire 2mm. (.50 per cent to .75 per cent carbon content).	...	1,775	...	1,845*	...	2,295
42	Tyre Beading Wire	...	1,215	...	1,285*	...	1,735

*The rates chargeable by Controlled Stockholders as per Column II above for items 39 to 42 apply to deliveries in quantities 1 cwt. and over. For quantities of less than 1 cwt. sold by Controlled Stockholders an extra of one anna per lb. will be added to the above rates.

The above amendment shall take effect from the 1st July 1951.

M. K. POWVALA
Iron and Steel Controller.
[SC (A)—271/51]

C. R. NATESAN, Dy. Secy.

PART IV

Section 2-C

RULES, ORDERS AND NOTIFICATIONS UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. L.S. 1700—L.W. 61-51-4, Bangalore, dated 27th July 1951.

The draft of the Industrial Statistics (Labour) Rules 1951, which it is proposed to make in exercise of powers conferred by sub-section (1) of Section 12 of the Industrial Statistics (Central) Act, 1942 (Act No. XIX of 1942), is hereby published for the information of all persons likely to be affected thereby.

Notice is hereby given that objections or suggestions, if any, thereon may be forwarded to the Secretary to Government, Law Department, through the Director of Industries and Commerce in Mysore, Bangalore, within a period of one month from the date of publication of the Notification in the Official Gazette. Objections or suggestions received thereafter shall not be considered.

The Industrial Statistics (Labour) Rules, 1951.

1. *Short Title and Commencement.*—(1) These rules may be called the Industrial Statistics (Labour) Rules, 1951.

(2) They shall come into force at once.

2. *Definitions.*—In these rules unless the context otherwise requires

(a) “Act” means the Industrial Statistics Act, 1942 (XIX of 1942);

(b) “employer” means:

(i) in the case of a factory, the manager nominated under clause (f) of sub-section (1) of Section 7 of the Factories Act, 1948 (LXIII of 1948);

- (ii) in the case of any other industrial establishment any person responsible for the supervision, control or management of the establishment;
- (c) "form" means a form set forth in the schedule annexed hereto;
- (d) "industrial establishment" means :
 - (i) a "factory" as defined in clause (m) of Section 2 of the Factories Act, 1948 (LXIII of 1948);
 - (ii) a "tramway" constructed under the Indian Tramways Act, 1886 (XI of 1886), or any special Act relating to tramways;
 - (iii) a "port" specified in the first schedule appended to the Indian Ports Act, 1908 (XV of 1908);
 - (iv) a "plantation" used or intended to be used for the cultivation of tea, coffee, rubber, or cinchona, or for any purpose connected therewith; and on which twenty or more persons are employed for that purpose.
- (e) "Quarter" means a period comprising three months ending on the 31st March, 30th June, 30th September or 31st December; and
- (f) "Statistics Authority" means the officer appointed under Section 4 of the Act to be the Statistics Authority for the purposes of collecting statistics in respect of the matters specified in clause (b) of sub-section (1) of Section 3 of the Act.

3. *Service of Notice on the Employer by the Statistics Authority.*—(1) The Statistics Authority shall :

- (i) within two months from the date of the commencement of these rules, or
- (ii) if it is not possible to do so for any unavoidable reason, as soon as possible thereafter, serve a notice on each employer requiring him to furnish to the Statistics Authority in duplicate :
 - (a) quarterly returns in the appropriate form; and
 - (b) statements showing the details of revisions : wages and allowances, and of periodic bonus granted to the workers together with the

conditions of eligibility to such bonuses as and when such revisions are made or bonuses granted;

Provided that the Statistics Authority shall, in the case of an industrial establishment which is not in existence at the time of commencement of these rules, serve the said notice on the employer as soon as may be, after the coming into existence of the said establishment requiring him to furnish the said returns and statements in duplicate, to the Statistics Authority by such dates as may be specified in the notice.

(2) The Statistics Authority shall forward with the notice specified in sub-rule (1) an adequate number of forms in which the returns are to be furnished.

(3) Similar notices after the first notice may be served by the Statistics Authority at such intervals as he may decide.

4. *Furnishing of return by the employer.*—(1) Every employer on whom a notice under Rule 3 has been served by the Statistics Authority shall furnish to him in duplicate:

(a) the quarterly returns referred to in clause (a) of sub-rule (1) of Rule 3 within one month after the expiry of each quarter; and

(b) the statements referred to in clause (b) of sub-rule (1) of Rule 3 as and when such revisions are made or such bonuses granted:

Provided that on the representation of the employer, the Statistics Authority may, if he is satisfied that sufficient grounds exist, allow him such extension of time as he may deem fit:

Provided further that where a change takes place in the management of any industrial establishment after the service of the said notice the new employer shall be responsible for the submission of said returns and statements.

(2) The employer shall retain with himself a true copy of each return and statement submitted under sub-rule (1).

5. *Return of notice relating to an industry with which an employer is not connected.*—If an employer connected with any industrial establishment receives with the notice served under sub-rule (1) of Rule 3 forms

relating to an industry with which the establishment is not connected, he shall, within seven days of the receipt of the said notice, return the forms to the Statistics Authority stating the reasons therefor and giving the names of the industry with which the establishment is connected. The Statistics Authority shall thereupon send to the employer within seven days of the receipt of such intimation, the appropriate forms for such industry together with a fresh notice, if necessary, and the employer shall thereafter furnish the returns required therein within the time limits prescribed in Rule 4.

6. *Returns to be furnished in forms supplied for the purpose.*—The returns specified under Rule 3 shall be furnished only in forms supplied by the Statistics Authority, but if the number of forms supplied is not sufficient the employer shall apply to the said authority for the supply of an adequate number of forms in time. If the forms applied for are not supplied by the Statistics Authority in time, the employer may make copies of the forms already supplied.

7. *Method of service of notice and furnishing of returns.*—The Statistics Authority shall serve the notice referred to in sub-rule (1) of Rule 3 of on the employer at his least known address by registered post or through a messenger under a cover entitled "Notice under the Industrial Statistics (Labour) Rules, 1951," and the employer shall furnish the returns and statements specified in sub-rule (1) of Rule 4 by registered post, acknowledgment due, or through a messenger, under a cover entitled "Confidential—Return under the Industrial Statistics (Labour) Rules, 1951".

8. *Information to be furnished in English.*—All information required under Rule 3 shall be furnished in English.

CONFIDENTIAL.

FORM A.

FACORIES.

To be submitted to the Statistics Authority within one month after the close of the quarter to which the return relates.

THE INDUSTRIAL STATISTICS ACT, 1942.

THE INDUSTRIAL STATISTICS (LABOUR) RULES, 1951.

Return for the quarter ending the 19

Name of the factory.....Industry*.....Using power. (Please strike out the term not

Not using power. applicable).

Postal address.....District.....State.....

PART I—RETURN ON EMPLOYMENT ATTENDANCE.

Number of workers on rolls on the last working day of the quarter [*Vide* instruction (a).] ... { Men.....
Women.....
Children.....

Number of working days during the quarter [*Vide* instruction (b)]

	1st month of the quarter	2nd month of the quarter	3rd month of the quarter
Total number of man-shifts worked [<i>Vide</i> instruction (c)] during each month of the quarter			
Total number of man-shifts lost on account of absence [<i>Vide</i> instruction (d)] during each month of the quarter due to			
Men.....			
Women.....			
Children.....			
Sickness.....			
Accidents.....			
Other causes (including statutory and other authorised leave).			
Total number of man-shifts lost through involuntary unemployment [<i>Vide</i> instruction (e)] during each month of the quarter.....			

If there are any marked changes in employment attendance, absenteeism, etc. either in the month to month figures or as compared to the previous quarter, please account briefly for the changes.

*Where the factory is engaged in more than one industry, please specify the various industries, and indicate the main industry taking into account the number of workers employed in each case.

PART II—RETURN ON HOURS OF WORK AND EARNINGS.

[The information given in this return should relate to the last month (English Calendar) of the quarter].

Number of working days in the month.....

	Average daily attendance during the month [Vide instruction (f)]	Aggregate number of man-hours worked during the month [Vide instruction (g)]	Total cash earnings during the month. [Vide instruction (h)]					Estimated money value of concessions in kind earned during the month [Vide instruction (j)]
			Basic wages	Dearness allowances	Overtime payments	Other cash payments [Vide instruction (i)]	Total	
Men ...								
Women ...								
Children ...								

Normal hours of work.

1st Shift.—From..... to

2nd Shift.—From..... to

3rd Shift.—From..... to

Rest intervals.

From..... to

From..... to

From..... to

Please give references to statements regarding revisions in basic wages, allowances, etc., sent during the quarter, if any, in accordance with clause (b) of sub-rule (1) of rule 4.

Please furnish details regarding the scheme of dearness allowance, bonuses, etc., and if the dearness allowance is linked to the cost of living index, indicate how the amount is calculated.....

Please give in the space provided below a distribution of the number of workers on rolls at the end of the month according to the wage period (e.g., week, fortnight, or any other period) adopted for payment in each case:

Wage period (please specify).

No. of workers.

Certified that the information given above is correct.

Signature.....

Name (in block letters).

Designation (in block letters)

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INSTRUCTIONS.

(a) For definition of "Worker" please see Section 2 (1) of the Factories Act, 1948. Workers below 15 years of age should be classified as children. Workers who have completed the 15th year but have not completed the 18th year, if not certified as adults should also be included under children.

(b) "Working days" exclude all weekly and other scheduled holidays even if some of the workers or some of the departments are required to work either full time or part of the time on such days unless a majority of the workers in the establishment are working on such day.

(c) Total number of man-shifts worked during the month is obtained by adding together the numbers of workers who worked on each shift on each day of the month.

(d) Total number of man-shifts lost during the month on account of absence is obtained by adding together the number of workers absent on each shift on each day during the month. Man-shifts lost by absence due to strike, lockout or employer-ordered lay-off should be excluded.

(e) Total number of man-shifts lost through involuntary unemployment is obtained by adding together the number of workers who in spite of being on rolls, remained unemployed for want of coal or raw-materials, breakdown of machinery, inadequacy of work, etc., on each shift on each working day of the month.

(f) Average daily attendance is obtained by dividing the aggregate number of attendances on all the shifts on all days during the period by the number of working days. Absences in hours need not be considered. Days on which the establishment was closed for whatever cause should not be treated as working day.

(g) Aggregate number of man-hours worked during the period is obtained by adding together the numbers of man-hours worked on all shifts on all working days. The number of man-hours worked on each shift is obtained by adding together the numbers of hours worked by each worker on that shift.

(h) Please include all cash payments, deductions under the Payment of Wages Act, 1936, and taxes payable and deducted, if any. Contributions to provident funds, pensions, etc., should not be included. The figures should relate to wages, etc., earned during the month.

(i) This should include other cash allowances, bonuses, etc., if any, earned during the month. Annual bonuses, etc., should be excluded even if they are paid during the month.

(j) This should be worked out by taking into consideration the difference between the wholesale prices of the articles such as foodgrains, cloth, fuel, etc., which are supplied free to workers or at concessional prices and the actual prices at which they are supplied. The details under each head may kindly be furnished separately. The value of uniforms supplied to workers while on work and the cost of amenities provided such as housing, medical aid, etc., should not, however, be included.

CONFIDENTIAL

FORM B.

TRAMWAYS (OTHER THAN WORKSHOPS).

To be submitted to the Statistics Authority within one month after the close of the quarter to which the return relates.

THE INDUSTRIAL STATISTICS ACT, 1942
THE INDUSTRIAL STATISTICS (LABOUR) RULES, 1951.

Return for the quarter ending the....., 195

Name of the establishment.....

Postal address..... District..... State.....

Part I—Return on Employment and Attendance.

Number of workers on rolls at the end of the quarter
[Vide instruction (a)].

{ Drivers
Conductors
Inspectors.....
Other staff.....

	1st Month of the quarter	2nd Month of the quarter	3rd Month of the quarter
Total number of man-shifts worked during each month of the quarter [Vide instruction (b)].			
Total number of man-shifts lost on account of absence other than on rest days [Vide instruction (c)] during each month of the quarter due to	Sickness Accidents Other causes (including statutory and other autho- rised leave).		

Do you allow weekly holidays to workers?

If not, what is the alternative system of rest days?

How many workers got their full complement of rest during the quarter?

If there is any marked increase or decrease in employment, attendance, or absenteeism, etc., either in the month to month figures or compared to the previous quarter, please briefly account for the changes.

PART II—RETURN ON HOURS OF WORK AND EARNINGS.

[The information given in this return should relate to the last month (English Calendar) of the quarter].

	Average daily attendance during the month [<i>Vide</i> instruction (d)]	Aggregate number of man-hours worked during the month [<i>Vide</i> instruction (e)]	Total cash earnings during the month [<i>Vide</i> instruction (f)]					Estimated money value of concessions in kind earned during the month [<i>Vide</i> instruction (h)]
			Basic wages	Dearness allowances	Overtime payments	Other cash payments [<i>Vide</i> instructions (g)]	Total	
Drivers.....								
Conductors.....								
Inspectors.....								
Others.....								
Total.....								

Please indicate the normal daily hours of work, and the rest intervals of various classes of workers.

Please give references to statements regarding revisions in basic wages, allowances, etc., sent during the quarter, if any, in accordance with clause (b) of sub-rule (1) of Rule 4.

Please furnish details regarding the schemes of dearness allowance, bonus, etc., and if the dearness allowance is linked with cost of living index, please indicate how the amount is calculated.

Certified that the information given above is correct.

Signature.....

Name (in block letters).....

Designation (in block letters).....

INSTRUCTIONS.

- (a) "Workers" should include all employees excluding supervisory staff.
- (b) Total number of man-shifts worked during the month is obtained by adding together the numbers of workers who worked on each shift on each day of the month.
- (c) Total number of man-shifts absent during the month is obtained by adding together the numbers of workers absent on each shift on each day of the month. Man-shifts lost by absence due to strike, lock-out, or employer-ordered lay-off should be excluded.
- (d) Average daily attendance is obtained by dividing the aggregate number of attendances on all shifts on all working days during the month by the number of working days.
- (e) Aggregate number of man-hours worked during the period is obtained by adding together the number of man-hours worked on all shifts on all working days. The number of man-hours worked on each shift is obtained by adding together the numbers of hours worked by each worker on that shift.
- (f) Please include all cash payments, deductions, and taxes payable and deducted, if any. Contributions to provident funds, pensions, etc., should not be included. The figures should relate to wages, etc. earned during the month.
- (g) This should include other cash allowances, bonuses, etc., if any, earned during the month. Annual bonuses, etc., should be excluded even if they are paid during the month.
- (h) This should be worked out by taking into consideration the difference between the wholesale prices of the articles such as foodgrains, cloth, fuel, etc., which are supplied to the workers free or at concessional prices and the actual prices at which they are supplied. The details under each head may kindly be furnished separately. The value of uniform supplied to workers while on work and the cost of amenities provided such as housing, medical aid, etc., should not, however, be included.

quarter to which the return relates.
THE INDUSTRIAL STATISTICS ACT, 1942.
THE INDUSTRIAL STATISTICS (LABOUR) RULES, 1951.

Return for the quarter ending the.....

Name of Port..... State.....
Name of employer..... Address.....

PART IV - RETURN ON EMPLOYMENT AND ATTENDANCE.

Number of workers on rolls at the end of the quarter.....
[Vide Instruction (a)]

Covered by the Factories Act				Men.			Women.			Total.		
Covered by the Indian Railways Act												
Others												
				1st month of the quarter			2nd month of the quarter			3rd month of the quarter		

Total number of man-shifts worked [Vide instruction (b)] during each month of the quarter				Men			Women			Total		
Total number of man-shifts lost on account of absence other than on rest days [Vide instruction (c)] during each month of the quarter due to				Sickness			Accidents			Other causes (including statutory and other authorised leave).		

The information given in this form should relate to the last month (or last quarter) of the quarter.

Are the workers allowed weekly rest?
If not, what is the system of rest days?
How many workers get their full compliment of weekly rest during the quarter?
If there is any marked increase or decrease in employment, attendance, absenteeism, etc., either in the month to month figures or as compared to the previous quarter, please account for it.

PART II—RETURN ON HOURS OF WORK AND EARNINGS.

The information given in this return should relate to the last month (English Calendar) of the quarter.

	Average daily attendance during the month [Vide instruction (d)]	Aggregate number of man-hours worked during the month [Vide instruction (e)]	Total cash earnings during the month [Vide instruction (f)]					Estimated money value of concessions in kind earned during the month [vide instruction (h)]
			Basic wages	Dearness allowance	Over time payments	Other cash payments [Vide instruction (g)].	Total	
Skilled { Men								
{ Women								
Semi-skilled { Men								
{ Women								
Un-skilled { Men								
{ Women								

Please indicate the normal daily hours of work and the rest intervals.

Please give references to statement regarding revisions in basic wages, allowances, etc., sent during the quarter, if any, in accordance with clause (b) of sub-rule (1) of rule 4.

Please furnish details regarding the schemes of dearness allowance, bonuses, etc., and if the dearness allowance is linked with the cost of living index, indicate how the amount is calculated.

Certified that the information given above is correct.

Signature.....

Name (in block letters).....

Designation (in block letters).....

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INSTRUCTIONS.

- (a) "Workers" should include all employees working in the premises of the Port excluding supervisory staff.
- (b) Total number of man-shifts worked during the month is obtained by adding together the numbers of man-shifts worked on each shift on each day of the month.
- (c) Total number of man-shifts absent during the month is obtained by adding together the numbers of workers absent on each shift on each day of the month. Man-shifts lost by absence due to strike, lockout, or employer-ordered lay-off should be excluded.
- (d) Average daily attendance is obtained by dividing the aggregate number of attendances on all shifts on all working days during the month by the number of working days.
- (e) Aggregate number of man-hours worked during the period is obtained by adding together the number of man-hours worked on all shifts on all working days. The number of man-hours worked on each shift, is obtained by adding together the numbers of hours worked by each worker on that shift.
- (f) Please include all cash payments, deductions and taxes payable and deducted, if any. Contributions to provident funds, pensions, etc., should not be included. The figures should relate to wages, etc., earned during the month.
- (g) This should include other cash allowances, bonuses, etc., if any, earned during the month. Annual bonuses, etc., should be excluded even if they are paid during the month.
- (h) This should be worked out by taking into consideration the difference between the wholesale prices of the articles such as cloth, fuel, etc., which are supplied to workers free or at concessional prices and the actual prices at which they are supplied. The details under each head may kindly be furnished separately. The value of uniforms supplied to workers while on work, and the cost of amenities provided such as housing, medical aid, etc., should not, however, be included.

CONFIDENTIAL

FORM D.

PLANTATIONS:

To be submitted to the Statistics Authority within one month after the close of the quarter to which the return relates.

re included

THE INDUSTRIAL STATISTICS ACT, 1942

THE INDUSTRIAL STATISTICS (LABOUR) RULES, 1951

Return for the quarter ending the 1st day of the month of the year

(1) This return is to be made up by the person or persons who are in charge of the plantation

Product in Rubber (Strike out the term not applicable)

Coffee

Name of the estate

Product in Rubber (Strike out the term not applicable)

Cinchona

Postal address

District and State

PART I - RETURN ON EMPLOYMENT AND ATTENDANCE

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

Number of workers on the books on the last working day of the quarter

Number of working days during the quarter

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PART II—RETURN ON HOURS OF WORK AND EARNINGS.

[The information given in this return should relate to the last month (English Calendar) of the quarter].

Number of working days in the month

	Average daily attendance during the month [Vide instruction (e)]	Total cash earnings during the month [Vide instruction (f)]					Estimated money value of concessions in kind earned during the month [Vide instruction (h)]
		Basic wages	Dearness allowances	Payments for overtime or extra work	Other payments [Vide instruction (g)]	Total	
Garden Labour							
Men.....							
Women.....							
Minors.....							
Outside Labour							
Men.....							
Women.....							
Minors.....							

Normal hours of work :—From.....to.....

Rest intervals :—From.....to.....

Please give references to statements regarding revisions in basic wages, allowances, etc., sent during the quarter, if any, in accordance with clause (b) of sub-rule (1) of rule 4.

Please furnish details regarding dearness allowances and bonuses and if the dearness allowance is linked with the cost of living index, please indicate how the amount is calculated.

Certified that the information given above is correct.

Signature
Name (in block letters)
Designation (in block letters)

INSTRUCTIONS.

(a) "Workers" should include all employees in plantation estates excluding supervisory staff. Workers in plantation factories should be excluded. Workers below eighteen should be considered as minors.

(b) "Working days" should exclude all scheduled holidays even if some of the workers are required to work on such days.

(c) Total number of man-days worked during the month is obtained by adding together the numbers of workers who worked on each working day of the month.

(d) Total number of man-days absent is obtained by adding together the numbers of workers absent on each working day of the month. Man-days lost by absence due to strike, lockout, or employer-ordered lay-off, should be excluded.

(e) Average daily attendance is obtained by dividing the aggregate total number of attendances on all working days during the month by the number of working days.

(f) Please include all cash payments and authorised deductions made, if any. Contributions to the provident funds, pensions, etc., if any, should not be included. The figures should relate to wages, etc., earned during the month.

(g) This should include cash allowances, bonuses, etc., if any, earned during the month. Annual bonuses, etc., should be excluded even if they are paid during the month.

(h) This should be worked out by taking into consideration the difference between the wholesale prices of the articles such as food grains, cloth, etc., which are supplied to workers free or at concessional prices and the actual prices at which they are supplied. The details under each head may kindly be furnished separately. The value of uniforms supplied to workers while on work and cost of amenities provided such as housing, medical aid, etc., should not, however, be included.

No. L.S. 1718—L.W. 74-51-1, dated Bangalore, the 28th July 1951.

It is hereby notified that the period of one month allowed in Government Notification No. L.S. 1175—L.W. 74-51-1, dated 25th June 1951, for receiving objections and suggestions on the draft of the Mysore Labour Housing Rules, 1951, published in the *Mysore Gazette*, dated 28th June 1951, is extended up to 15th August 1951.

By Order of His Highness the Maharaja,
JAYA RAO,
Secretary to Government,
Law Department.

No. D.IV. 2666—Ex. 163-51, dated Bangalore, the 28th July 1951.

It is hereby directed that the Deputy Commissioners of Kolar and Tumkur Districts may, during the year 1951-52, exercise the powers conferred on them by section 22A of the Mysore Prohibition Act, 1948 (Mysore Act No. XXXVII of 1948) in the taluks noted below in their respective districts,

Goribidnur Taluk of Kolar District and
Sira and Chicknayakana Taluks of Tumkur District.

Subject to the condition that the today contractors of only Bangalore District should be issued licenses for the tapping of trees for toddy in these taluks and for the manufacture, possession and transport of such toddy.

By Order of His Highness the Maharaja,
RANGAMALLAH,
Secretary to Government,
Revenue Department.

No. C. 668—Co. 23-49-92, dated Bangalore, 28th July 1951.

In exercise of the powers conferred by Section 3 and clause (a) of subsection (1) of Section 4 of the Mysore Drugs (Control) Act, 1950 (Mysore Act No. VI of 1950), His Highness the Maharaja is pleased to direct that the following further amendments shall be made in the Notification No. C. 3130—Co., dated the 3rd October 1949, namely:—

In the schedule annexed to the said Notification—

(1) To the entries under the heading "Boots Pure Drug Co. (India) Ltd., Bombay", the following entries shall be added, namely:—

	Rs.	a.	p.
Penicillin Crystalline G. Potassium and Sodium Salts—			
Box of 10 vials, each vial containing 100,000 units	9	8	0
Do do 200,000	12	4	0
Do do 500,000	24	0	0
Do do 1,000,000	40	12	0

(2) To the entries under the heading "Abbot Laboratories (India), Limited, Bombay", the following entries shall be added, namely:—

Bevitin with Vitamin C Capsules— 40	10	10	0
Do do —100	21	13	0

(3) To the entries under the heading "Messrs. Chas. Pfizer & Co., Inc., New York", the following entries shall be added, namely:—

Combiotic P-S—			
Combination of Pronapen and Dihydrostreptomycin Sulphate			
Each single dose consists of—			
Crystalline Procaine Penicillin G-300,000 units			
Buffered Crystalline Sodium Penicillin G-100,000 units.	Single dose		
Dihydrostreptomycin Sulfate 1-gram	vial Rs.	9	12 0
For one 3 cc. Aqueous Injection prepared by the addition of sterile Aqueous diluent for Intramuscular administration			

(4) To the entries under the heading "Glaxo Laboratories", the following entries shall be added, namely:—

Pelonin tablets—1000's	...	22	10	0
Pelonin Amide tablets—1000's	...	33	5	0
1-Thyroxine Sodium 0.05 mg. 100's	...	2	0	0
1-Thyroxine Sodium 0.1 mg. 100's	...	2	5	0
Macrabin Amps. (Vitamin B 12) 20 u.g. 6's	...	5	5	0
Macrabin Amps. (Vitamin B 12) 50 u.g. 6's	...	10	10	0
Ostocalcium tablets 250's	...	8	10	0
Combined Procaine penicillin with sodium penicillin in oil 10 cc.	...	22	10	0
Seclophen (Dry Procaine Penicillin with Crystalline sodium penicillin) 1 dose	...	3	0	0
Seclophen (Dry Procaine Penicillin with Crystalline sodium penicillin) 5 dose	...	12	0	0
Crystalline penicillin G ointment $\frac{1}{2}$ oz.	...	1	10	0
Crystalline penicillin G Eye ointment 1 drachm	...	2	0	0
Penicillin Lozenges 20's	...	1	5	0
Penicillin oral tablets 10's	...	12	0	0
Estopen 1 dose	...	4	10	0
Kapilin tablets 100's	...	6	5	0

(5) To the entries under the heading "Martin and Harris Ltd., Calcutta", the following entries shall be added, namely:—

"MESSRS. N. V. ORGANON, HOLLAND"

Penicillin Crystalline G. Sodium	100,000 units vial	...	1	2	0
Do	do	200,000 do	...	1	6 0
Do	do	500,000 do	...	2	5 0
Do	do	1,000,000 do	...	3	11 0

(6) To the entries under the heading "British Drug Houses (India), Ltd.", the following entry shall be added, namely:—

Vitamin B-1 B.D.H.—

Ampoules containing 25 mg. per cc. Box of 100×1 cc. 88 0 0

(7) For the heading "Parke Davis and Company", the heading "Parke Davis and Company, Limited" shall be substituted.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,
Secretary to Government,
Food and Agriculture Departments.



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PART IV

Section 1-A.

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION.

No. L.D. 82—Legis. 3-50-24, dated Bangalore, 16th April 1951.

Ordered that the accompanying Employees' State Insurance (Amendment) Bill, 1951, published in the *Gazette of India*, Part II, Section 2, dated the 31st March 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

BILL No. 24 OF 1951 ³⁸⁷**THE EMPLOYEES' STATE INSURANCE (AMENDMENT) BILL, 1951.**

(AS INTRODUCED IN PARLIAMENT)

**A
BILL***to amend the Employees' State Insurance Act, 1948.*

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Employees' State Insurance (Amendment) Act, 1951.**2. Amendment of section 1, Act XXXIV of 1948.**—In section 1 of the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act),—

(a) in sub-section (2), for the words and letter "except Part B States" the words "except the State of Jammu and Kashmir" shall be substituted;

(b) in sub-section (3), for the words "for different States" the words "for different States or for different parts thereof" shall be substituted;

(c) in sub-section (5), for the words "with the approval of the Central Government" the words "where the appropriate Government is a State Government, with the approval of the Central Government" shall be substituted.

3. Amendment of section 2, Act XXXIV of 1948.—In section 2 of the principal Act,—

(a) for clause (2) the following clause shall be substituted, namely:—

(2) "benefit period" means such period being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months corresponding to the contribution period, as may be specified in the regulations :

Provided that in the case of the first benefit period a longer or shorter period may be specified by or under the regulations ;

(b) for clause (5) the following clause shall be substituted, namely :—

(5) "contribution period" means such period, being not less than twenty-five but not exceeding twenty-seven consecutive weeks or six consecutive months, as may be specified in the regulations :

Provided that in the case of the first contribution period a longer or shorter period may be specified by or under the regulations ;

(c) in clause (12),—

(i) in the definition of "factory", the words "or a railway running shed" shall be added at the end ; and

(ii) for the figures "1934" the figures "1948" shall be substituted ;

(d) in clause (15), for the figures "1934" the figures "1948" shall be substituted ;

(e) in clause (17), in sub-clause (1), for the words, brackets, letter and figures "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934" the words and figures "the Factories Act, 1948" shall be substituted ;

(f) in clause (22), for the words " paid at regular intervals after the last day of the wage period " the words " paid at intervals not exceeding two months " shall be substituted.

4. Amendment of section 4, Act XXXIV of 1948.—In section 4 of the principal Act, in clause (d), for the words and letter " Part A States " the words and letters " Part A States and Part B States in which this Act is in force " shall be substituted.

5. Amendment of section 8, Act XXXIV of 1948.—In section 8 of the principal Act,—

(a) after clause (b) the following clause shall be inserted, namely :—

" (bb) three members of the Corporation representing such three State Governments thereon as the Central Government may, by notification in the Official Gazette, specify from time to time ; " ;

(b) in clause (c),—

(i) for the word " nine " the words " six " shall be substituted; and

(ii) sub-clause (i) shall be omitted.

6. Amendment of section 9, Act XXXIV of 1948.—In section 9 of the principal Act, for the word, brackets and letter " clause (b) ", in both the places where they occur, the words, brackets and letters " clause (b) or clause (bb) " shall be substituted.

7. Amendment of section 10, Act XXXIV of 1948.—In section 10 of the principal Act, in clause (d) of sub-section (1), for the words and letter " Part A States " the words and letters " Part A States and Part B States in which this Act is in force " shall be substituted.

8. Amendment of section 12, Act XXXIV of 1948.—Section 12 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted namely :—

" (2) Where in the opinion of the Central Government any person nominated or elected to represent employers, employees or the medical profession on the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be, has ceased to represent such employers, employees or the medical profession, the Central Government may, by notification in the Official Gazette, declare that with effect from such date as may be specified therein such person shall cease to be a member of the Corporation, the Standing Committee or the Medical Benefit Council, as the case may be."

9. Amendment of section 22, Act XXXIV of 1948.—In clause (a) of section 22 of the principal Act, for the words " the Corporation, the Standing Committee and the Medical Commissioner " the words " the Corporation and the Standing Committee " shall be substituted.

10. Amendment of section 26, Act XXXIV of 1948.—In section 26 of the principal Act,—

(a) in sub-section (2), the words and letter " Part B States " shall be omitted ; and

(b) for sub-section (3), the following sub-section shall be substituted, namely :—

" (3) Subject to the other provisions contained in this Act and to any rules or regulations made in this behalf, all moneys accruing or payable to the said Fund shall be paid into the Reserve Bank of

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India or such other bank as may be approved by the Central Government to the credit of an account styled the account of the Employees' State Insurance Fund."

11. Amendment of section 28, Act XXXIV of 1948.—In clause (v) of section 28 of the principal Act, the words and letter "Part B States" shall be omitted.

12. Substitution of new section for section 44 in Act XXXIV of 1948.—For section 44 of the principal Act, the following section shall be substituted, namely:—

"44 *Employers to furnish returns and maintain registers in certain cases.*—(1) Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him or to any factory or establishment in respect of which he is the principal or immediate employer as may be specified in regulations made in this behalf.

(2) Where in respect of any factory or establishment the Corporation has reason to believe that a return should have been submitted under sub-section (1) but has not been so submitted, the Corporation may require any person in charge of the factory or establishment to furnish such particulars as it may consider necessary for the purpose of enabling the Corporation to decide whether the factory or establishment is a factory or establishment to which this Act applies.

(3) Every principal and immediate employer shall maintain such registers or records in respect of his factory or establishment as may be required by regulations made in this behalf."

13. Amendment of section 45, Act XXXIV of 1948.—In sub-section (2) of section 45 of the principal Act, after clause (c) the following clauses shall be inserted, namely:—

"(d) make copies of, or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises;

(e) exercise such other powers as may be prescribed."

14. Amendment of section 50, Act XXXIV of 1948.—In section 50 of the principal Act,—

(a) in sub-section (1), for the word "occurring" the words "occurring or expected to occur" shall be substituted;

(b) in sub-section (2), for the words "the rate of twelve annas a day" the words "the daily rate specified in sub-section (3)" shall be substituted.

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The daily rate referred to in sub-section (2) shall be—

(i) the rate at which the insured woman could have claimed sickness benefit for any period of sickness during the benefit period in which the confinement occurs or is expected to occur if she had been qualified to claim sickness benefit during that period, or

(ii) twelve annas,

whichever is greater."

15. Amendment of section 53, Act XXXIV 1948.—In clause (iii) of section 53 of the principal Act, for the words and figures "Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923)"

the words "Employees' Insurance Court having jurisdiction" shall be substituted.

16. Amendment of section 55, Act XXXIV of 1948.—In section 55 of the principal Act,—

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, the Corporation may, either of its own motion or on the application of the person receiving the benefit review the payment of any disablement or dependants' benefit:

Provided that unless otherwise specified in the regulations made in this behalf every application for the review of a disablement benefit shall be accompanied by a certificate of a duly appointed medical officer."

(b) in sub-section (2),—

(i) for the words "the Commissioner" the words "the Corporation" shall be substituted; and

(ii) for the words "disablement benefit" the words "disablement or dependants' benefit" shall be substituted.

17. Amendment of section 56, Act XXXIV of 1948.—In sub-section (3) of section 56 of the principal Act, for the words "or as provided under the regulations, is in receipt of disablement benefit" the words "or is in receipt of such disablement benefit as does not disentitle him to medical benefit under the regulations" shall be substituted.

18. Amendment of section 58, Act XXXIV of 1948.—In sub-section (4) of section 58 of the principal Act, for the words and letter "for a Part A State" the words "of a State" shall be substituted.

19. Amendment of section 68, Act XXXIV of 1948.—In sub-section (1) of section 68 of the principal Act, for clause (i), the following clause shall be substituted namely:—

(i) the difference between the amount of benefit which is paid by the Corporation to the said person and the amount of the benefit which would have been payable on the basis of the contributions which were in fact paid by the employer; or";

20. Insertion of new Chapter V-A in Act XXXIV of 1948.—In the principal Act, after Chapter V, the following shall be inserted as Chapter V-A, namely:—

CHAPTER V-A.

TRANSITORY PROVISIONS.

73A. Employer's special contribution.—(1) For so long as the provisions of this Chapter are in force, every principal employer shall, notwithstanding anything contained in this Act, pay to the Corporation a special contribution (hereinafter referred to as the employers' special contribution) at the rate specified under sub-section (3).

(2) The employer's special contribution shall, in the case of a factory or establishment situate in any area in which the provisions of both Chapters IV and V are in force, be in lieu of the employer's contribution payable under Chapter IV.

(3) The employer's special contribution shall consist of such percentage, not exceeding five per cent of the total wage bill of the employer,

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as the Central Government may, by notification in the Official Gazette, specify from time to time :

Provided that before fixing or varying any such percentage the Central Government shall give by like notification not less than two months' notice of its intention so to do and shall in such notification specify the percentage which it proposes to fix or, as the case may be, the extent to which the percentage already fixed is to be varied :

Provided further that the employer's special contribution in the case of factories or establishments situate in any area in which the provisions of both Chapters IV and V are in force shall be fixed at a rate higher than that in the case of factories or establishments situate in any area in which the provisions of the said Chapters are not in force.

(4) The employer's special contribution shall fall due as soon as the liability of the employer to pay wages accrues, but may be paid to the Corporation at such intervals, within such time and in such manner as the Central Government may, by notification in the Official Gazette, specify, and any such notification may provide for the grant of a rebate for prompt payment of such contribution.

Explanation.—“ Total wage bill ” in this section means the total wages which have accrued due to employees in a factory or establishment in respect of such wage periods as may be specified for the purposes of this section by the Central Government by notification in the Official Gazette.

73B. *Special tribunals for decision of disputes or questions under this Chapter where there is no Employees' Insurance Court.*—(1) If any question or dispute arises in respect of the employer's special contribution payable or recoverable under this Chapter and there is no Employees' Insurance Court having jurisdiction to try such question or dispute, the question or dispute shall be decided by such authority as the Central Government may specify in this behalf.

(2) The provisions of sub-section (1) of section 76, sections 77 to 79 and 81 shall, so far as may be, apply in relation to a proceeding before an authority specified under sub-section (1) as they apply in relation to a proceeding before an Employees' Insurance Court.

73C. *Benefits under Chapter V to depend upon employee's contribution.*—The payment of the employee's contribution for any week in accordance with the provisions of Chapter IV in any area where all the provisions of that Chapter are in force shall for the purpose of Chapter V, have effect as if the contributions payable under Chapter IV in respect of that employee for that week had been paid, and shall accordingly entitle the employee as an insured person to the benefits specified in Chapter V if he is otherwise entitled thereto.

Explanation.—In the case of an exempted employee, the employee's contribution shall be deemed to have been paid for a week if the Corporation is satisfied that during that week the employer's contribution under Chapter IV would have been payable in respect of him but for the provisions of this Chapter.

73D. *Mode of recovery of employer's special contribution.*—The employer's special contribution payable under this Chapter may be recovered as if it were an arrear of land revenue.

73E. *Power to call for additional information or return.*—Without prejudice to the other provisions contained in this Act, the Corporation may, for the purpose of determining whether the employer's special contribution is payable under this Chapter or for determining the amount

thereof, by general or special order, require any principal or immediate employer or any other person to furnish such information or returns to such authority, in such form and within such time as may be specified in the order.

73F. *Power to exempt to be exercised by Central Government alone in respect of employer's special contributions.*—Notwithstanding anything contained in this Act, the Central Government may, having regard to the size or location of, or the nature of the industry carried on in, any factory or establishment or class of factories or establishments, exempt the factory or establishment or class of factories or establishments from the payment of the employer's special contribution under this Chapter and nothing contained in sections 87 to 91 inclusive shall be deemed to authorise any State Government to grant any such exemption.

73G. *Application of certain provisions of this Act to employer's special contributions.*—Save as otherwise expressly provided in this Chapter, the provisions of Chapter IV, section 72 and Chapter VII and any rules and regulations made under this Act shall, so far as may be, apply in relation to the payment or recovery of employer's special contributions, the penalties specified in connection therewith and all other matters incidental thereto as they would have applied in relation to an employer's contribution if this Chapter were not in force and the employer's contribution had been payable under this Act.

73H. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order notified in the Official Gazette, make such provision or give such direction as appear to it to be necessary for the removal of the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.

73I. *Duration of Chapter V-A.*—The Central Government may, by notification in the Official Gazette, direct that the provisions of this Chapter shall cease to have effect on such date as may be specified in the notification, not being a date earlier than three months from the date of the notification :

Provided that on the provisions of this Chapter so ceasing to have effect the provisions of section 6 of the General Clauses Act, 1897 (X of 1897), shall apply as if the provisions of this Chapter had then been repealed by a Central Act.'

21. Amendment of section 75, Act XXXIV of 1948.—In sub-section (1) of section 75 of the principal Act, after clause (e) the following clause shall be inserted, namely :—

“(ee) any direction issued by the Corporation under section 55 on a review of any payment of disablement or dependants' benefits ;”.

22. Amendment of section 86, Act XXXIV of 1948.—To sub-section (1) of section 86 of the principal Act, the words “or of such other officer of the Corporation as may be authorised in this behalf by the Central Government” shall be added at the end.

23. Amendment of section 94, Act XXXIV of 1948.—In section 94 of the principal Act, after the words, figures and brackets “Insolvency Act, 1920 (V of 1920)” the words and letter “or under any law relating to insolvency in force in a Part B State” shall be inserted.

24. Insertion of new section 94A in Act XXXIV of 1948.—After section 94 of the principal Act, the following section shall be inserted, namely :—

“ 94A. *Delegation of powers.*—The Corporation, and, subject to any regulations made by the Corporation in this behalf, the Standing Committee may direct that all or any of the powers and functions which may be exercised or performed by the Corporation or the Standing Committee, as the case may be, may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by any officer or authority subordinate to the Corporation.”

25. Amendment of section 97, Act XXXIV of 1948.—In sub-section (2) of section 97 of the principal Act,—

(a) for clause (xix) the following clause shall be substituted, namely :—

“(xix) the returns to be submitted and the registers or records to be maintained by the principal and immediate employers, the forms of such returns, registers or records, and the times at which such returns should be submitted and the particulars which such returns, registers and records should contain ;” ;

(b) for clause (xxi) the following clause shall be substituted, namely :—

“(xxi) the method of recruitment, pay and allowances, discipline, superannuation benefits and other conditions of service of the officers and servants of the Corporation other than the Principal Officers ;” ;

(c) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) The condition of previous publication shall not apply to any regulations of the nature specified in clause (xxi) of sub-section (2).”

26. Omission of section 98, Act XXXIV of 1948.—Section 98 of the principal Act shall be omitted.

27. Insertion of new section 100 in Act XXXIV of 1948.—After section 99 of the principal Act, the following section shall be inserted, namely :—

“ 100. *Repeals and savings.*—If, immediately before the day on which this Act comes into force in a Part B State, there is in force in that State any law corresponding to this Act, that law shall, on such day, stand repealed :

Provided that the repeal shall not affect—

(a) the previous operations of any such law, or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(c) any investigation or remedy in respect of any such penalty, forfeiture or punishment ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that subject to the preceding proviso anything done or any action taken under any such law shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly unless and until superseded by anything done or any action taken under this Act.”

28. Amendment of Schedule I, Act XXXIV of 1948.—In Schedule I to the principal Act, for paragraph 2 the following paragraph shall be substituted, namely :—

‘ 2. The average daily wages shall be :—

(a) in respect of an employee whose wage period is a day, the amount of wages earned during the week divided by the number of days worked in that week ;

(b) in respect of an employee employed on the basis of any other wage period, the amount of wages earned in that wage period in which the contribution falls due divided by the number of days worked in such wage period ;

(c) in respect of an employee employed on any other basis, the amount calculated on the basis of wages earned for the day on which the contribution falls due or on such other day as may be specified in the regulations in this behalf.

Explanation I.—Subject to any regulations made in this behalf, the term “ days worked ” means the number of days on which the employee worked for wages.

Explanation II.—Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the days worked as part of the day preceding.

Explanation III.—Except as provided by regulations, wages, pay, salaries or allowances paid in respect of any period of leave or holidays other than the weekly holidays shall not be taken into account in calculating wages.

Explanation IV.—“ Wage period ” means the period in respect of which wages are ordinarily payable whether in terms of the contract of employment, express or implied, or otherwise.

29. Amendment of Schedule II, Act XXXIV of 1948.—In Schedule II to the principal Act,—

(a) in paragraph 2,—

(i) after the word and figures “ section 48 ” the words “ plus the number of any other weeks in that contribution period for which contributions were paid in respect of the person ” shall be inserted :

(ii) in *Example 3*, for the words “ benefit year ” the words “ benefit period ” shall be substituted ;

(b) in paragraph 3, for the words “ provided that ”, the following words shall be substituted, namely :—

“ Provided that where no contribution was paid in respect of the employee during the aforesaid period of fifty-two weeks the disablement and dependants’ benefit shall be an amount equivalent to one-fifty-second part of the monthly wages calculated in accordance with section 5 of the Workmen’s Compensation Act, 1923 (VII of 1923), and provided further that ” ;

(c) in paragraph 4, in the second proviso to sub-paragraph (ii),—

(i) for the words “ legitimate children ” the words “ legitimate children or adopted son ” shall be substituted ;

(ii) for the words “ exceeds the full rate ” the words “ exceeds at any time the full rate ” shall be substituted ; and

(iii) for the word “ reduced ” the word “ altered ” shall be substituted ;

(d) in paragraph 5, for the words and figures "Commissioner appointed under the Workmen's Compensation Act, 1923" the words "Employees' Insurance Court having jurisdiction" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Employees' State Insurance Act, 1948, was passed by the Dominion Legislature in April 1948. It provides for certain benefits to industrial employees in case of sickness, maternity and employment injury. The Act permits the implementation of the scheme by stages.

2. It was intended that the scheme should be implemented in the first instance in Delhi and Kanpur, but regional implementation of such schemes is always attended with certain practical difficulties. The principal difficulties are the rise in the cost of production and the diminution of the competitive capacity of industries located in those regions. The main objections of the employers centred round the former difficulty and those of the Uttar Pradesh Government emphasised the latter. The Central Government have considered those objections and are anxious to avoid any competitive handicap to any region. This may be best achieved by an equitable distribution of the employer's contribution, even where implementation is effected only in certain areas, among the employers in the whole country—employers in regions where the scheme is implemented paying slightly higher contributions. This will minimise the contribution leviable from the employers and spread the incidence of the cost of the scheme equitably. This Bill is primarily intended to achieve this object.

3. Advantage has been taken of this opportunity to effect some other amendments to the Act which have been found necessary for rectifying certain defects and removing certain lacunæ in the Act. The reasons for the amendments are, wherever necessary, given in the Notes on Clauses attached to this Bill.

NEW DELHI;

JAGJIVAN RAM.

The 13th March, 1951.

NOTES ON CLAUSES

Clause 2.—Sub-section (3) of section 1 does not permit of implementing the scheme directly in a part of a State. This amendment provides for such implementation.

Clause 3 (c).—Railway running sheds are excluded from the definition of factories in the Factories Act, 1948. This amendment seeks to achieve the same object in respect of the Employees' State Insurance Act.

Clause 5.—In order to avoid frequent elections and notifications arising out of the changes in the State Governments' nominees, this clause provides for notification by the Central Government of three State Governments whose representatives would automatically be on the Standing Committee.

Clause 8.—This clause provides for the cessation of membership on the loss of representative character.

Clause 12.—This clause provides for the maintenance of records and furnishing of some additional information.

Clause 14.—The principal change is liberalisation of the daily rate of maternity benefit. By this amendment the insured women would be entitled to the existing daily rate of 12 annas or the sickness rate whichever is the higher.

Clause 15.—This clause removes the power to determine rates of dependants' benefit in certain cases from the Workmen's Compensation Act Commissioner and vests it in the Employees' Insurance Court. Similarly the ultimate responsibility for the other duties of Workmen's Compensation Act Commissioner is being shifted to the Employees' Insurance Court by other amendments in the Bill. This is in conformity with the general procedure for adjudications of other disputes and claims under the Act.

Clause 16.—The power of review is to be exercised in cases of dependants' benefits also.

Clause 20.—A new self-contained chapter is proposed providing for the collection of employer's special contribution throughout the Union. The rate of the contribution which may be varied from time to time is to be fixed by the Central Government after two months' notice by notification. The rate of the contribution shall be higher in areas where the scheme applies than in other areas. The manner of and time within which the special contribution is to be paid would be notified by the Central Government. Consequential provisions fitting the employer's special contribution into the existing scheme of the Act and other necessary provisions have been made in this Chapter. The Central Government is empowered to give directions or provide for such matters as may be necessary for the removal of any difficulty. The Chapter can be withdrawn from operation by the Central Government after giving three months' notice.

Clause 24.—This provision enables the Corporation and the Standing Committee to delegate to their officers such of their powers as they may think fit. This power is necessary for carrying on day to day administration.

Clause 25.—The principal change is the avoidance of previous publication in the case of regulations relating to the conditions of service of employees of the Corporation.

Clause 28.—The amendment is intended to simplify calculations and clarify certain doubtful points.

Clause 29.—The amendments are principally intended to remove certain doubts, anomalies and obvious omissions.

ANNEXURE

EXTRACTS FROM THE EMPLOYEES' STATE INSURANCE ACT, 1948 (XXXIV OF 1948).

* * * *

Section 1 (2) (3) and (5).

(2) It extends to the whole of India except Part B States.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States.

(5) The appropriate Government may, in consultation with the Corporation and with the approval of the Central Government, after giving six months' notice of its intention of so doing by notification in the Official Gazette, extend the provisions of this Act or any of them, to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

Section 2 (2) } 97

(2) "benefit period" means such period of twenty-six consecutive weeks or six consecutive months corresponding to the contribution period, or in the case of the first benefit period, such longer or shorter period, as may be specified in the regulations.

Section 2 (5)

(5) "contribution period" means such period of twenty-six consecutive weeks or six consecutive months, or in the case of the first contribution period, such longer or shorter period, as may be specified in the regulations.

Section 2 (12)

(12) "factory" means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923);

"seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes;

The expressions "manufacturing process" and "power" shall have the meanings respectively assigned to them in the Factories Act, 1934 (XXV of 1934);

Section 2 (15)

(15) "occupier" of the factory shall have the meaning assigned to it in the Factories Act, 1934 (XXV of 1934).

Section 2 (17)

(17) "principal employer" means—

- (i) in a factory, the owner or occupier of the factory and includes the managing agent of such owner or occupier, the legal representative of a deceased owner or occupier, and where a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (XXV of 1934), the person so named;
- (ii) in any establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf or where no authority is so appointed, the head of the Department;
- (iii) in any other establishment, any person responsible for the supervision and control of the establishment;

Section 2 (22)

(22) "wages" means all remuneration paid or payable in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes other additional remuneration, if any, paid at regular intervals after the last day of the wage period, but does not include—

- (a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;
- (b) any travelling allowance or the value of any travelling concession;
- (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (d) any gratuity payable on discharge;

Section 4(d)

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(d) one person each representing each of the Part A States to be nominated by the State Government concerned;

Section 8(c)

(c) nine members elected by the Corporation as follows:—

- (i) three members from among the members of the Corporation nominated by the State Governments;
- (ii) two members from among the members of the Corporation representing employers;
- (iii) two members from among the members of the Corporation representing employees;
- (iv) one member from among the members of the Corporation representing the medical profession; and
- (v) one member from among the members of the Corporation elected by Parliament.

Section 9

9. Term of office of members of Standing Committee.—(1) Save as otherwise expressly provided in this Act, the term of office of a member of the Standing Committee, other than a member referred to in clause (a) or clause (b) of section 8, shall be two years from the date on which his election is notified:

Provided that a member of the Standing Committee shall, notwithstanding the expiry of the said period of two years, continue to hold office until the election of his successor is notified:

Provided further that a member of the Standing Committee shall cease to hold office when he ceases to be a member of the Corporation.

(2) A member of the Standing Committee referred to in clause (a) or clause (b) of section 8 shall hold office during the pleasure of the Central Government.

Section 10(1) (d)

10. Medical Benefit Council.—(1) The Central Government shall constitute a Medical Benefit Council consisting of—

* * * * *

(d) one member each representing each of the Part A States to be nominated by the State Government concerned;

Section 22(a)

22. Duties of Medical Benefit Council.—The Medical Benefit Council shall—

(a) advise the Corporation, the Standing Committee and the Medical Commissioner on matters relating to the administration of medical benefit, the certification for purposes of the grant of benefits and other concerned matters;

Section 26(2) & (3)

(2) The Corporation may accept grants, donations and gifts from the Central or any State Government, Part B States, local authority, or any individual or body whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys accruing or payable to the said Fund shall be received by such officers of the Corporation as may be authorised by it in this behalf and shall forthwith be paid by them into the Reserve Bank of India or such

other bank as may be approved by the Central Government, to an account styled the account of the Employees' State Insurance Fund.

Section 28(v)

(v) payment of contributions to any State Government, Part B State, local authority or any private body or individual, towards the cost of medical treatment and attendance provided to insured persons and, where the medical benefit is extended to their families, their families including the cost of any building and equipment in accordance with any agreement entered into by the Corporation ;

Section 44

44. Returns by employers.—Every principal and immediate employer shall submit to the Corporation or to such officer of the Corporation as it may direct such returns in such form and containing such particulars relating to persons employed by him, as may be specified in regulations made in this behalf.

Section 50(1) & (2)

50. Maternity benefit.—(1) An insured woman shall be qualified to claim maternity benefit for a confinement occurring in a benefit period if during the corresponding contribution period, weekly contributions in respect of her were payable for not less than two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions :

Provided that at least one contribution has been paid between thirty-five and forty weeks before the week in which the confinement takes place or in which notice of pregnancy is given before confinement whichever is more advantageous to the insured person.

(2) Subject to the provisions of this Act, and the regulations, if any, an insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall be entitled to receive it at the rate of twelve annas a day for all days on which she does not work for remuneration during a period of twelve weeks of which not more than six shall precede the expected date of confinement.

Section 53 (iii)

(iii) In case the insured person does not leave him surviving any widow or children as mentioned in clause (ii) or in the case of an insured woman if she does not leave her surviving any children as mentioned in clause (ii), dependant's benefit shall be paid to the other dependants of the deceased at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923).

Section 55(1) & (2)

55. Review of benefits.—(1) Any payment of disablement benefit may be reviewed by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923), on the application of—

- (a) an Insurance Officer of the Corporation, or
- (b) the person receiving the benefit,

and such application shall be accompanied by a certificate of a duly appointed medical officer :

Provided that such application may be made without such certificate in such circumstances as may be specified in the regulations made in this behalf.

(2) Subject to the provisions of this Act, the Commissioner may, on such review as aforesaid, direct that the disablement benefit be continued, increased, reduced or discontinued.

Section 56(3)

(3) A person shall be entitled to medical benefit during any week for which contributions are payable in respect of him or in which he is qualified to claim sickness benefit or maternity benefit or, as provided under the regulations, is in receipt of disablement benefit :

Provided that a person in respect of whom contribution ceases to be payable under this Act may be allowed medical benefit for such period and of such nature as may be provided under the regulations.

Section 58(4)

(4) In default of agreement between the Corporation and any State Government as aforesaid the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator (who shall be or shall have been a Judge of the High Court for a Part A State) appointed by the Chief Justice of India and the award of the arbitrator shall be binding on the Corporation and the State Government.

Section 68(1) (i)

(i) the difference between the amount of benefit which is paid to the said person and the amount of the benefit which would be payable on the basis of the contributions which should have been paid by the employer, or

Section 86(1)

86. Prosecutions.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of the Insurance Commissioner.

Section 94

94. Contributions, etc., due to Corporation to have priority over other debts.—There shall be deemed to be included among the debts which, under section 49 of the Presidency-towns Insolvency Act, 1909 (III of 1909), or under section 61 of the State Insolvency Act, 1920 (V of 1920), or under section 230 of the Indian Companies Act, 1913 (VII of 1913), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability wherefor accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.

Section 97(2) (xix and xxi)

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

* * * * *

(xix) the returns to be submitted by the principal and immediate employers, the form in which and the times at which such returns should be submitted and the particulars to be given in such returns ;

* * * * *

(xxi) the conditions of service of the officers and servants of the Corporation other than the Principal Officers ;

SCHEDULE I—Para 2.

2. The average daily wages shall be :—

- (a) in respect of an employee employed on daily wages, the amount of wages earned during the week divided by the number of days worked (reckoned in terms of full working days);
- (b) in respect of an employee employed on weekly wages, the amount earned in the week divided by the number of days worked (reckoned in terms of full working days);
- (c) in respect of an employee employed on monthly wages, the amount earned in the month in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days);
- (d) in respect of an employee employed on the basis of any other wage period, the wages for the period, in which the contribution falls due, divided by the number of days worked (reckoned in terms of full working days) during the period;
- (e) in respect of an employee paid at piece-work rate, the amount earned during the week divided by the number of days worked (reckoned in terms of full working days);
- (f) in respect of an employee employed on hourly wages, the amount of wages earned during the week, divided by the number of hours worked and multiplied by eight;
- (g) in respect of employee who does not fall under clauses (a) to (f), the amount calculated on the basis of wages earned for the day on which the contribution falls due.

Explanation.—Except as provided by regulations, pay, salaries or allowances paid in respect of any period of leave or holidays with pay shall not be taken into account in reckoning wages.

SCHEDULE II—Paras. 2, 3, 4 and 5.

2. The daily rate of sickness benefit during any benefit period shall be an amount equivalent to one half of the sum of the assumed average daily wages as aforesaid for each of the weeks for which contributions were paid in respect of the person during the corresponding contribution period, divided by the number of weeks in that contribution period in which he was deemed to have been available for employment within the meaning of section 48: provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples :—

Example 1.—If the assumed average daily wages of the person as an employee were Rs. 1-4-0 a day for 10 weeks, Rs. 1-12-0 a day for 10 weeks and Rs. 2-8-0 a day for 6 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be :—

$$\frac{10 \times 20 + 1 \times 28 + 6 \times 40}{6} = 27 \frac{18}{26}$$

The daily rate of sickness benefit payable in the benefit period will then be annas, rounded to the next higher anna, namely, 14 annas.

Example 2.—If the person was deemed to have been not available for employment for 14 weeks in any contribution period and was employed as an

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employee for only 12 weeks in that contribution period, his assumed average daily wages being Rs. 1-4-0 for the 12 weeks, the average of the assumed daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{12 \times 20}{(26-14)} = 20 \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit period will then be 10 annas.

Example 3.—If the person was deemed to have been not available for employment for 4 weeks in any contribution period and was employed as an employee for only 20 weeks (he having been without any employment for 2 weeks) in that contribution period, his assumed average daily wages being Rs. 1-12-0 for 20 weeks, the average of the daily wages for the purpose of the rate of sickness benefit will be:—

$$\frac{20 \times 28}{(26-4)} = 25 \frac{5}{11} \text{ annas.}$$

The daily rate of sickness benefit payable in the benefit year will then be $12 \frac{8}{11}$ annas, rounded to the next higher anna, namely, 13 annas.

3. Disablement and dependants' benefit shall be an amount equivalent to one-half of the sum of the assumed average daily wages for each of the weeks for which contributions were paid in respect of the employee during the period of fifty-two weeks immediately preceding the week in which the employment injury occurs, divided by the number of weeks for which contributions were so paid: provided that where the amount of the benefit so calculated includes a fraction of an anna, it shall be rounded to the next higher anna. The calculation indicated above is illustrated by the following examples:—

Example 1.—If the assumed average daily wages of an employee were 14 annas a day for 20 weeks, Rs. 1-4-0 a day for 20 weeks and Rs. 1-12-0 a day for 12 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 20 \times 20 + 12 \times 28}{52} = 19 \frac{28}{52} \text{ annas.}$$

The disablement or dependants' benefit will then be $9 \frac{20}{26}$ to the next higher anna, namely, 10 annas a day.

Example 2.—If the employee worked only for 34 weeks in the period of 52 weeks preceding the week in which the employment injury occurs and his assumed average daily wages were 14 annas a day for 20 weeks and Rs. 1-4-0 for 14 weeks, the average of the assumed daily wages for the purpose of disablement and dependants' benefit will be:—

$$\frac{20 \times 14 + 14 \times 20}{34} = 16 \frac{16}{34} \text{ annas.}$$

The disablement or dependants' benefit will be $8 \frac{8}{34}$ annas, rounded to the next higher anna, namely, 9 annas a day.

The disablement or dependants' benefits calculated as aforesaid shall be called the full rate.

4. The disablement or dependants' benefit shall be payable to a person suffering from disablement as a result of an employment injury sustained as an employee in a factory or establishment to which this Act applies, or if he dies as a result of such injury, to his dependants, as follows:—

(i) to the insured person—

- (a) for temporary disablement, during the period of such disablement at the full rate;
- (b) for permanent partial disablement, at a percentage of the full rate, as provided in section 4 of the Workmen's Compensation Act, 1923 (VIII of 1923), for life;
- (c) for permanent total disablement, at the full rate for life;
- (d) in case of disablement not covered by clauses (a), (b) and (c) above, as may be provided in the regulations;

(ii) in the case of the death of the person, to his widow and children as follows:—

- (a) to the widow during life or until remarriage an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows;
- (b) to each legitimate or adopted son, an amount equivalent to two-fifths of the full rate until he attains fifteen years of age;
- (c) to each legitimate unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains fifteen years of age or until marriage, whichever is earlier:

Provided that the Corporation may continue such benefit to any legitimate or adopted son or any legitimate unmarried daughter until he or she attains the age of eighteen years if such son or daughter continues education to the satisfaction of the Corporation:

Provided further that if the total of the dependant's benefits distributed among the widow or widows and legitimate children of the deceased person as aforesaid exceeds the full rate, the share of each of the dependants shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

5. In case the deceased person does not leave a widow or legitimate child, dependants' benefit at such rates as may be determined by the Commissioner appointed under the Workmen's Compensation Act, 1923 (VIII of 1923) shall be payable as follows:—

- (a) to a parent or grand parent, for life;
- (b) to any other male dependant, until he attains fifteen years of age;
- (c) to any other female dependant, until she attains fifteen years of age or until marriage, whichever is earlier, or if widowed until she attains fifteen years of age.

PART IV 409

Section—1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE
CONSTITUTION BY THE PRESIDENT

NOTIFICATION.

HOME DEPARTMENT.

No. H.B. 4166-75—Ptl. 4-51-7, dated Bangalore, 8th August 1951.

Ordered that the accompanying Notification No. III—P.M.T. (X.—125)—50—N.(II), dated 29th June 1951 of the Government of India, Ministry of Rehabilitation, further amending the Permit System Rules, 1949, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Chief Secretary to Government.

Copy of Notification No. III—P.M.T.(X.—125)—50—N.(II), dated 29th June 1951, from the Government of India, Ministry of Rehabilitation.

In exercise of the powers conferred by section 4 of the Influx from Pakistan Control) Act, 1949 (XXIII of 1949), the Central Government hereby directs that the following further amendments shall be made in the Permit System Rules, 1949, namely :—

In rule 5 of the said rules—

- (a) the proviso to clause (iv) shall be omitted,
- (b) the following proviso shall be added at the end, namely :—

“ Provided that in the Presidency towns of Bombay, Calcutta and Madras the powers conferred by clauses (iii) and (iv) may be exercised by the Commissioner of Police or a Deputy Commissioner of Police.”

PART IV 403

Section I-C

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 835—Legis. 6-51-19, dated Bangalore, 6th August 1951.

Ordered that Notification No. S.R.O. 1039, dated the 3rd July 1951, of the Ministry of States delegating powers under certain sections of the Code of Criminal Procedure, 1898 (Central Act V of 1898), published in the *Gazette of India*, Part II, Section 3, dated the 14th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF STATES.

New Delhi, the 3rd July, 1951.

S.R.O. 1039.—In exercise of the powers conferred by sub-section (1) of Section 16 of the Central Reserve Police Force Act, 1949 (LXVI of 1949), the Central Government hereby directs that the powers conferred and duties imposed under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), specified in Column I of the Schedule hereto annexed shall be exercised by and imposed upon the officers and men of the Central Reserve Police specified in the corresponding entry in Column II thereof.

SCHEDULE

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I Section of the Criminal Procedure Code	II Rank of officers and men upon whom powers are conferred and duties imposed
47 Search of place entered by person sought to be arrested.	All ranks.
48 Procedure where ingress not obtainable.	Do
49 Powers to break open doors and windows for purposes of liberation.	Do
51 Search of arrested person ...	Do
53 Power to seize offensive weapons ...	Do
54 When Police may arrest without warrant.	Do
58 Pursuit of offender into other juris- dictions.	Do
79 Warrant directed to Police Officers.	Do
102 } Searches under Magistrate's warrant and }	Subedars and Jemadars.
103 } 127 } Power to disperse unlawful assem- and } blies. 128 }	Subedars and Jemadars.
149 Prevention of Crime ...	All ranks.
150 Information of a design to commit cognizable offence.	Do
151 Arrest to prevent cognizable offence.	All ranks.
152 Prevention of injury to Public Property.	Do

[No. 146-D].

H. C. MAHINDROO, *Under Secy.*

NOTIFICATION.

No. L.D. 836—Legis. 6-51-20, dated Bangalore, 6th August 1951.

Ordered that Notification No. S.R.O. 1046, dated the 4th July 1951 of the Ministry of Commerce and Industry amending the Iron and Steel (Control of Production and Distribution) Order, 1951, published in the *Gazette of India*, Part II, Section 3, dated the 14th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government, Law Department.

GOVERNMENT OF INDIA. 407

MINISTRY OF COMMERCE AND INDUSTRY.*New Delhi, the 4th July, 1951.*

S.R.O. 1046.—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government is pleased to direct that the following further amendment shall be made to the Iron and Steel (Control of Production and Distribution) Order, 1941, namely:—

The following proviso shall be added to sub-clause (1) of clause (3) in the said Order:—

“Provided that the provisions of this Order shall not apply to any fabricated iron and steel of the categories specified in the said Schedule when such fabrication is done under the authority of or in accordance with the conditions contained or incorporated in a general or special written order of the Controller or under the authority of a quota certificate or permit issued under clause 4 or clause 5 as the case may be.”

[No. SC(A)-4(66)]

N. R. REDDY, *Under Secy.***NOTIFICATION.**

No. L.D. 837—Legis. 5-51-29, dated Bangalore, 6th August 1951.

Ordered that Notification No. S.R.O. 1113, dated the 17th July 1951, of the Ministry of Works, Production and Supply, amending the Cinematograph Film Rules, 1948, published in the *Gazette of India*, Part II, Section 3, dated the 21st July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and**Secretary to Government,**Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.*New Delhi, the 17th July, 1951*

S.R.O. 1113.—In exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Petroleum Act, 1934 (XXX of 1934), as applied to the storage and transport of cinematograph films having nitro-cellulose base by the notifications of the Government of India in the late Department of Labour No. Ex. 108, dated the 14th January 1946, in the late Ministry of Works, Mines and Power No. M II-104 (3), dated the 24th January 1951 and in the Ministry of Works, Production and

Supply No. M-128 (9) (vi), dated the 18th May 1951, the Central Government hereby directs that the following amendments shall be made in the Cinematograph Film Rules, 1948, the same having been previously published as required by sub-section (2) of Section 29 of the said Act, namely:—

In the second proviso to rule 18 of the said Rules.

(a) to item (ii) the word "or" shall be added at the end,

(b) after item (ii) the following items shall be added, namely:—

"(iii) within the limits of any airport while in transit, under such conditions as the Director-General of Civil Aviation may specify".

[No. M-108(9)/51.]

N. P. DUBE, *Under Secy.*

NOTIFICATION.

No. L.D. 838—Legis. 5-51-28, dated Bangalore, 6th August 1951.

Ordered that Notification No. S.R.O. 1112, dated the 12th July 1951, of the Ministry of Works, Production and Supply, amending the Petroleum Rules, 1937 published in the *Gazette of India*, Part II, Section 3, dated the 21st July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF WORKS, PRODUCTION AND SUPPLY.

New Delhi, the 12th July, 1951.

S.R.O. 1112.—In exercise of the powers conferred by Section 4 and sub-section (1) of Section 29 of the Petroleum Act, 1934 (XXX of 1934), the Central Government hereby directs that the following further amendment shall be made in the Petroleum Rules, 1937, the same having been previously published, as required by sub-section (2) of Section 29 of the said Act, namely:—

Rule 85 of the said Rules shall be renumbered as sub-rule (1) of that rule and after sub-rule (1) as so renumbered the following sub-rule shall be added, namely:—

"(2) No petroleum shall be transported by pipe line unless the plan showing the pipe line and its surroundings has been approved by the Chief Inspector of Explosives in India".

[No. M-104 (2)/51.]

N. P. DUBE, *Under Secy.*

NOTIFICATION. 409

No. L.D. 839—Legis. 5-51-30, dated Bangalore, 6th August 1951.

Ordered that Notification No. S.R.O. 300, dated 21st July 1951, of the Ministry of Defence amending the Territorial Army Rules, 1948, published in the *Gazette of India*, Part II, Section 4, dated the 21st July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

PART II—SECTION 4.

STATUTORY RULES AND ORDERS ISSUED BY THE MINISTRY
OF DEFENCE

MINISTRY OF DEFENCE

New Delhi, the 21st July 1951.

S.R.O. 300.—In exercise of the powers conferred by Section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government hereby directs that the following amendments shall be made in the Territorial Army Rules, 1948, namely:—

In the said Rules—

1. For Rule 18 the following Rule shall be *substituted*, namely:—

“18. Military Training—Military training for Territorial Army units shall consist of:—

- (a) Recruit training,
- (b) Annual training,
- (c) Voluntary training, and
- (d) Service on the permanent staff.”

2. After Rule 21, the following rule shall be *inserted*, namely:—

“21A. Service on permanent staff.

- (a) Every enrolled person who volunteers with the written consent of his employer, if any, for employment on the permanent staff of a Territorial Army unit, may, if found suitable by the Commanding Officer of the Unit, be embodied under the orders of the Officer Commanding the Area in which the unit is located, for such period as he is required to fill a vacancy on the permanent staff of the unit.

(b) Every Officer who volunteers with the written consent of his employer, if any, for employment on the permanent staff of a Territorial Army Unit, may, if found suitable, be embodied under the orders of the Director, Territorial Army, for such period as he is required to fill a vacancy on the permanent staff of that unit or of any other unit of the Territorial Army to which he may be transferred with his consent."

3. In rule 22, for the words and figures " and rule 21 ", the words, figure and letter " rule 21 and 21A " shall be substituted.

4. In rule 24, after the word " shall " the words " except in case of those serving on the permanent staff " shall be inserted.

[Case No. 38749/GS/TA3.]

H. M. PATEL, Secy.

NOTIFICATION.

No. L.S. 1866—L.W. 71-50-25, dated Bangalore, 7th August 1951.

WHEREAS industrial disputes exist or are apprehended between the employers in relation to the Automobile Services in Mysore District specified in Schedule I annexed to this Order and the workmen employed by them, in respect of the matters specified in Schedule II annexed to this Order;

AND WHEREAS in the opinion of His Highness the Maharaja of Mysore it is necessary to refer the said disputes for adjudication;

NOW, THEREFORE, in exercise of the powers conferred by clause (C) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), His Highness the Maharaja of Mysore hereby directs that the said disputes be referred for adjudication to the Industrial Tribunal constituted in Notification No. L. S. 1075—L.W. 68-51-2, dated 15th June 1951.

SCHEDULE I.

NAMES OF AUTOMOBILE SERVICES, MYSORE DISTRICT.

Sl. No.	Name of Service	Sl. No.	Name of Service
1	Owner, C.P.C. Motor Service	25	Owner, B. S. V. Motor Service
2	Do K.V. Motor Service	26	Do Republic Motor Service
3	Do Chamundi Motor Service	27	Do Anjaneya Motor Service
4	Do Rajalakshmi Motor Service	28	Do Yoganarasimha Motor Service
5	Do Empire Motor Service	29	Do Sathyanarayana Motor Service
6	Manager, Modern Motor Service	30	Do Sree Sathyanarayana Motor Service.
7	Owner, General Motor Service	31	Do Kohinoor Motor Service
8	Do Malavalli K. V. Motor Service	32	Do Hunsur Motor Service
9	Do Express Motor Service	33	Do Rahamania Motor Service
10	Do Sangameshwara Motor Service	34	Do Sivalinga Motor Service
11	Do Transport Motor Service	35	Do Viswanatha Motor Service
12	Do V. R. Motor Service	36	Do Sree Lalitha Motor Service
13	Do K. B. Motor Service	37	Do S.C.V.D.S. Motor Service
14	Do Jayalakshmi Motor Service	38	Do Thibbadevi Motor Service
15	Do Bramaramba Motor Service	39	Do Prabudeva Motor Service
16	Do Sreenivasa Motor Service	40	Do Siddalingeswara Motor Service
17	Do Ramanatha Motor Service	41	Do Shabbear Motor Service
18	Do Lengajamba Motor Service	42	Do Basaveswara Motor Service
19	Do Maruthi Motor Service	43	Do S. B. Motor Service
20	Do Kendaganneswara Motor Service	44	Do Sree Prasannavenkateswara Motor Service.
21	Do Ganesh Motor Service	45	Do Mahathma Motor Service
22	Do Shankara Motor Service	46	Do Ganganatha Motor Service
23	Do Chamarajeswara Motor Service		
24	Do Khanvoye Motor Service		

SCHEDULE II. 44

DEMANDS OF THE MYSORE DISTRICT AUTOMOBILE WORKERS.

- 1 Institution of Provident Fund Scheme for the benefit of the Automobile Workers.
- 2 Drivers, Conductors and Cleaners should be insured by the employers.
- 3 No worker should work for more than eight hours a day.
- 4 All the workers who have put in three months' service should be confirmed.
- 5 Weekly holidays with wages.
- 6 Workers who have put in three months' continuous service should be given four days' casual leave and fourteen days' privilege leave.
- 7 The running staff should be provided with food, etc., when on the line.
- 8 Workers should be given three months' wages as annual bonus and one month's wages for Independence Day Celebrations.
- 9 Opening of a free Canteen at the workshops.
- 10 The employers should meet all the expenses of the running staff when on the line.
- 11 Proper classification of workers. They should not be changed to other jobs without reason.
- 12 Workshop workers should not be given more than eight days' work on the line.
- 13 (a) The wages of drivers, conductors, cleaners, fitters, mechanics, clerks and agents should be fixed as follows:—

	Minimum Rs.	Increment Rs.	Maximum Rs.
(1) Drivers	90	6	150
(2) Conductors	50	4	90
(3) Cleaners	30	3	60
(4) Mechanics	150	10	200
(5) Clerks	50	4	90
(6) Checking Clerks and Fitters	60	5	100

- (b) In addition drivers and conductors going on the line, should receive each an allowance of rupees two per day.
- 14 The workers should be paid half the basic wages when they fall ill (sick).
- 15 Payments should be made within the 5th of every month.
- 16 The membership subscription should be deducted from the wages of the workers by the employers and credited to the account of the Association.
- 17 That the proprietors should immediately frame Standing Orders.
- 18 That all the proprietors should give their employees four months' bonus as their profits during 1948-49 were high.
- 19 That as there was difficulty for housing accommodation in Mysore, the proprietors should construct houses for their employees.
- 20 That every employee should be paid Dearness Allowance.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

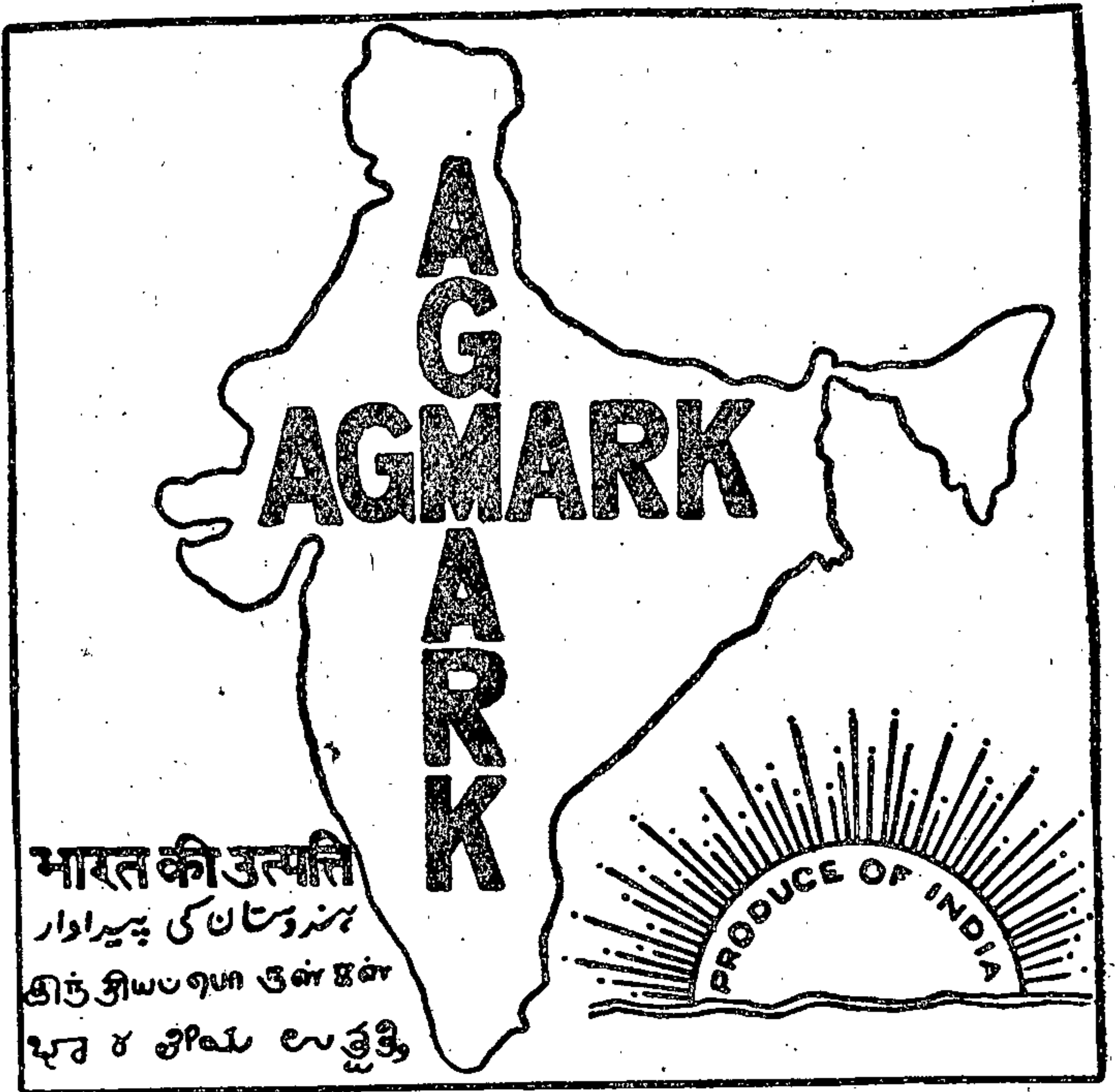
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In Notification No. L.D. 631—Legis. 5-51-14, dated 26th June 1951, published on pages 365 to 375, in Part IV, Section 1-C of the *Mysore Gazette* dated 9th August 1951, Schedule No. X has been omitted. The following schedule may be included and read as Schedule No. X after Schedule No. IX published on page No. 375 of the above Gazette.

SCHEDULE X.

Grade designation mark for Bristles

See Rule 4.



PART IV

Section 2-C 413

**RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES****NOTIFICATION.**

No. P.W. 3898-3901, dated Bangalore, 7th August 1951.

Under sub-para 1 of para 25 of the Mysore Irrigation Act of 1932 as amended by Act VII of 1938, it is hereby ordered that the provisions of chapter VI, paras 26 and 27 shall not apply to the work of construction of an Anicut across Tumbarahalla in Hariharapura Hobli, Koppa Taluk.

By Order of His Highness the Maharaja,

S. BILIGIRI RAO,

*Secretary to Government,
Public Works Department.*

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Reg. No. M. 1175



The Mysore Gazette

**PUBLISHED BY AUTHORITY
(SUPPLEMENTAL)**

BANGALORE, THURSDAY, AUGUST 23, 1951

PART IV

Section 2-B.

**MYSORE ACTS AND ORDINANCES AND ORDERS UNDER
THE CONSTITUTION BY THE RAJPRAMUKH.**

NOTIFICATION.

No. L.D. 913—Legis. 15 51-3, Bangalore, dated 22nd August 1951.

Ordered that the accompanying Mysore Warehouses Act, 1951, which received the assent of the President on the 7th day of August 1951, be published as Act No. XXIX of 1951, in the *Mysore Gazette*, for general information.

MYSORE ACT No. XXIX OF 1951.

THE MYSORE WAREHOUSES ACT, 1951. *415*

(Received the Assent of the President on the 7th day of August 1951.)

**An Act to provide for the regulation and licensing of
Warehouses in the State of Mysore.**

WHEREAS it is expedient to encourage the establish- Preamble.
ment of warehouses and make provision for their proper
supervision and control;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Warehouses Act, 1951. Short title,
extent and
commence-
ment.
- (2) It extends to the whole of the State of Mysore.
- (3) This section shall come into force at once; and the rest of this Act shall come into force on such date as the State Government may, by notification in the *Mysore Gazette*, appoint.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(1) “depositor” means a person who tenders his goods to a warehouseman for storing in his warehouse and shall include any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title to it by proper endorsement or transfer from the depositor or his lawful transferee;

(2) “goods” shall include agricultural and other raw produce, manufactured articles and merchandise;

(3) “prescribed” means prescribed by rules made under this Act;

(4) “prescribed authority” means, in relation to any provision of this Act, the authority prescribed by rules to carry out such provision;

(5) "receipt" means a warehouse receipt in the prescribed form issued by a warehouseman to a depositor showing that certain goods described therein have been deposited in his warehouse;

(6) "rules" mean rules made by the State Government under this Act;

(7) "warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods; but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers and the like;

(8) "warehouseman" means a person who carries on the business of storing produce or goods on behalf of depositors and issues receipts for the goods stored in his warehouse but does not include a pledgee or commission agent.

CHAPTER II.

LICENSING OF WAREHOUSES.

Warehouseman not to carry on business without licence.

3. No person shall, without a licence, carry on the business of a warehouseman or hold himself out as a warehouseman.

Application.

4. Every person desirous of carrying on the business of a warehouseman shall take out a licence for the conduct of such business by making an application to the prescribed authority in the prescribed form.

Security to be given by the applicant.

5. No application for such licence shall be granted unless the applicant furnishes such security as is sufficient in the opinion of the prescribed authority for the proper conduct of the warehouse.

Conditions for the grant of licence.

6. (1) Before granting a licence, the prescribed authority may make any enquiry it considers necessary, and shall satisfy itself,

(a) that the warehouse mentioned in the application is suitable for the proper storage of the class or classes of goods for which it is intended;

(b) that the applicant is competent to conduct such a warehouse;

- (c) that the applicant fulfils any other condition notified by the State Government under sub-section (2);
- (d) that the applicant has paid the fee prescribed for the licence and has also furnished the security under section 5; and
- (e) that there is no other reason for which the applicant may, in the opinion of the prescribed authority, be deemed to be disqualified.

(2) The State Government may, by notification in the *Mysore Gazette*, add to or alter the conditions under which a licence is granted to a warehouseman.

7. Every licence granted under section 6 shall be valid for the prescribed period, and may, on the expiry of such period, be renewed by the prescribed authority on application and on payment of the prescribed fee, provided the conditions in sub-section (1) of section 6 continue to be fulfilled.

Term and renewal of licence.

8. (1) A licence granted under section 6 or renewed under section 7 shall be liable to be suspended or cancelled either temporarily or permanently by the prescribed authority for reasons to be stated in writing and in particular if the warehouseman—

Suspension and cancellation of licence.

- (a) has been adjudged an insolvent, or
- (b) has parted in whole, or in part, with his control over the licensed warehouse, or
- (c) has ceased to conduct such licensed warehouse, or
- (d) has made exorbitant or unreasonable charges for the services rendered by him, or
- (e) has in any other manner become incompetent to conduct the business of warehousing, or
- (f) has contravened any of the terms of the licence or any of the provisions of this Act and the rules.

(2) The State Government may prescribe any other conditions under which a licence may be suspended or cancelled.

9. (1) Before suspending or cancelling a licence under section 8, the prescribed authority shall give notice to the warehouseman of the grounds on which it is proposed to take action and give him a reasonable opportunity of showing cause against it.

Notice of suspension and cancellation of licence.

(2) After considering the explanation, if any, offered by the warehouseman, the prescribed authority may suspend or cancel the licence or pass such orders as it deems just.

Arrangements for carrying on the warehousing business pending enquiry.

10. The prescribed authority may suspend the licence of a warehouseman pending the decision of the enquiry mentioned in section 9 and make interim arrangements, if necessary, for carrying on the warehousing business.

Return of licence.

11. (1) When a licence expires or is suspended or cancelled the warehouseman shall cease to carry on the business of a warehouseman and shall return the licence to the prescribed authority.

(2) When a licence expires or is suspended or cancelled, the custody of the goods under deposit shall vest in the prescribed authority and such authority shall have the power to settle the claims of the depositors.

Duplicate licence.

12. If a licence granted to a warehouseman is lost, destroyed or damaged, the prescribed authority shall, on the application of the warehouseman and on payment of the prescribed fee, issue a duplicate licence.

Penalty for carrying on business as a warehouseman without a licence.

13. Any person who carries on the business of a warehouseman without a licence, or who without a licence holds himself out as a licensed warehouseman, shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Publication of list of licensed warehouses.

14. The State Government shall publish in the *Mysore Gazette* the names and locations of warehouses licensed under this Act with the names and addresses of the licensees and also a list of all licences suspended or cancelled under this Act.

CHAPTER III.

DUTIES OF A WAREHOUSEMAN.

Reasonable care of the goods deposited to be taken.

15. Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

16. (1) Every warehouseman shall keep his warehouse clean and in a sanitary condition, and take all necessary precautions against rats and other pests which are likely to cause damage or injury to any of the goods stored in the warehouse, and fulfil such other conditions as may be prescribed.

Precautions against damage or injury to goods.

(2) No warehouseman shall accept for storing in his warehouse goods which are contaminated or infected by worms or pests, and which are likely to cause damage to other goods stored in the warehouse.

17. (1) Every warehouseman shall keep and maintain in a place of safety such books, accounts and records as may be prescribed, and shall allow them to be inspected in such manner and by such persons as may be prescribed.

Accounts and books to be maintained by warehouseman.

(2) Any warehouseman who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

18. Every warehouseman shall exercise such care to keep in his warehouse the goods of different depositors separate from each other so as to permit at all times the identification of the ownership and the maintenance of the quality of the goods deposited and to facilitate easy delivery of such goods on demand by depositors.

Preservation of identity of goods.

Provided that where standardised and graded goods are stored in a warehouse, then, subject to any agreement between the warehouseman and any depositor, the same variety of goods belonging to different depositors may be mingled together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

19. Every warehouseman shall build and maintain the warehouse in such manner as is laid down in the terms of licence granted to him.

Maintenance of warehouse.

20. Every warehouseman shall allow necessary facilities for the depositor to inspect and satisfy himself that his goods are properly cared for.

Warehouseman to allow facilities for the depositor to inspect.

Goods deteriorating in warehouse and their disposal.

21. (1) Whenever goods stored in a warehouse deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor and of their liabilities to be sold on a specified date and requiring the depositor to take delivery of the goods immediately, after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

(2) If the depositor does not, within a reasonable time, comply with the notice given to him under sub-section (1), the warehouseman may cause the goods to be removed from the warehouse and dried or reconditioned and sold by public auction at the cost and risk of the depositor.

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt covering such goods may notify the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof; and if such person requests in writing that he be given notice regarding the condition of the goods and agrees to pay the charges for giving such notice, the warehouseman shall give him notice accordingly.

Delivery of goods.

22. (1) Every warehouseman shall deliver the goods on demand by the holder of the warehouse receipt, on his offer to satisfy the warehouseman's lien, to surrender the receipt properly endorsed, and to give, when the goods are delivered, an acknowledgment that they have been delivered: provided that where a duplicate receipt has become issuable under this Act but cannot be issued within a reasonable time due to any extraordinary or technical reasons and it is necessary to deliver the goods forthwith to avoid deterioration, a warehouseman may deliver the goods without the receipt being surrendered on terms as to indemnity.

(2) Every such receipt after being so surrendered to the warehouseman shall be defaced by him and no such receipt shall be re-issued:

Provided that it shall be lawful for the warehouseman upon the surrender of such receipt, when part only of the goods is delivered on request, to issue to the depositor a new receipt for the goods remaining undelivered.

23. (1) Notwithstanding anything contained in any other law, no warehouseman shall, either on his own account or that of others, deal in, or lend money on, goods received by him for deposit in his warehouse. Warehouseman not to deal in or lend against goods in his warehouse.

(2) Any person who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

24. Any warehouseman who delivers any goods out of the warehouse save as provided in section 22 or who re-issues any receipt surrendered to him, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both. Penalty for delivery of goods without surrender of receipt or re-issue of surrendered receipt.

25. Any warehouseman who issues any receipt for goods which are not in his warehouse or who issues two or more receipts for the same goods or who issues receipts for goods in which he has any share or interest or who aids or abets any other person to do so shall be punishable with imprisonment for a term which may extend to three years or with fine or with both. Penalty for issue of receipt for goods not in the warehouse, etc.

26. Every warehouseman shall accept for storage in his warehouse so far as its capacity permits any goods tendered for warehousing by any depositor in the ordinary course of business without showing such discrimination between persons desiring to avail themselves of the facilities of his warehouse as will prejudicially affect their interests : Discrimination prohibited.

Provided that a warehouseman may give preference to or concession in favour of a co-operative society registered under the Mysore Co-operative Societies Act, 1948.

27. Every warehouseman shall insure, in such manner as may be prescribed, the goods stored in his warehouse against loss or damage by fire, floods, theft or any other accident. Insurance of goods in warehouse.

28. Every warehouseman shall have a lien on the goods stored in his warehouse for the cost of storage and preservation of the goods and for all the lawful charges incidental to the business. Warehouseman's lien.

CHAPTER IV 427

INSPECTION AND CLASSIFICATION OF GOODS.

Inspection.

29. The prescribed authority may inspect or examine a warehouse licensed under this Act, its machinery, equipment, goods stored therein and the account books and records relating thereto, at any time during business hours, for the purpose of satisfying itself that the requirements of this Act and the rules are being complied with.

Licensed
samplers,
weighers and
classifiers.

30. (1) The prescribed authority may issue licences to qualified and competent persons entitling them to act as samplers, weighers and classifiers of any goods stored or to be stored in a warehouse and to issue certificates as to quality, weight or grade of the goods which they have examined.

(2) The certificates issued by samplers, weighers, and classifiers as to quality, weight or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and the depositor.

(3) The prescribed authority may appoint a Board of Arbitrators to decide on any complaints against samplers, weighers and classifiers or warehousemen relating to quality, weight or grade of goods stored in the warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in any court of law.

Suspension or
cancellation
of licence.

31. Subject to rules made in this behalf, every licence granted to a sampler, weigher or classifier may be suspended or cancelled by the prescribed authority.

Return of
licence.

32. Whenever a licence granted to a sampler, weigher or classifier expires, or is suspended or cancelled, he shall return it to the prescribed authority.

Prohibition of
unlicensed
weighers,
classifiers,
etc.

33. (1) No person who is not licenced under this Chapter shall act or hold himself out as a sampler, weigher or classifier.

(2) Any person who contravenes sub-section (1) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

CHAPTER V.

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WAREHOUSE RECEIPTS.

34. (1) A warehouseman shall issue a receipt in the prescribed form containing full particulars in respect of the goods stored in his warehouse by each depositor. Issue of receipts.

(2) The State Government may prescribe the stamp duty that may be levied in respect of a receipt issued under this section.

35. A receipt issued by a warehouseman shall, unless specified otherwise thereon, be transferable by endorsement, and shall entitle its lawful holder thereof to receive the goods specified in it on the same terms and conditions as the original depositor. Receipt transferable by endorsement.

36. If a receipt is lost, destroyed or damaged, the warehouseman shall, on application by the depositor and payment of the prescribed fee, issue a duplicate receipt. The duplicate receipt shall be issued under such conditions as may be prescribed. Duplicate receipt.

CHAPTER VI.

MISCELLANEOUS.

37. Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to any refund of any fee paid by him for the licence. No compensation for suspension or cancellation of licences.

38. Every contract or agreement which is inconsistent with the provisions of this Act or the rules, shall, to the extent of such inconsistency, be void. Contracts and agreements inconsistent with Act to be void.

39. Whoever knowingly or wilfully contravenes any of the provisions or requirements of this Act or the rules shall, if no express provision is made by this Act for the punishment of such contravention, be punishable with imprisonment for a term which may extend to one year or with fine or with both. Penalty.

Offences by
Corporations.

40. Where a person committing any offence under this Act is a company or an association or body of persons whether incorporated or not, every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Appeal to
State
Government.

41. An appeal shall lie to the State Government within such period and subject to such conditions as may be prescribed against any order passed by the prescribed authority under any of the provisions of this Act.

Act not to
affect
warehouse
under any
other
enactment.

42. Nothing in this Act shall be deemed to apply to warehouses established or licensed under any other enactment for the time being in force.

Rules.

43. (1) The State Government may, by notification in the *Mysore Gazette*, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all, or any of the following matters, namely:—

- (a) the authority empowered to carry out the duties under this Act;
- (b) the form of application for the grant of licence to a warehouseman and the period and conditions of licence, its renewal, and conditions for the issue of a duplicate licence;
- (c) the form of receipt to be issued by a warehouseman, the particulars to be specified therein and the conditions for the issue of duplicate receipts;
- (d) the nature of the accounts, books and records to be maintained by a warehouseman and the persons by whom and the manner in which they may be inspected;
- (e) the manner of giving notices under this Act;
- (f) the manner of conducting a public auction for the sale of goods deteriorating in a warehouse and accounting for the proceeds of such sale;

- (g) the constitution of the Board of Arbitrators and the procedure to be followed in proceedings before the Board and the mode of executing their award;
- (h) the qualifications and grant of licences to samplers, weighers and classifiers, the conditions and period of their licences, the form of certificates to be issued by them, renewal of their licences, the conditions under which the licences may be suspended or cancelled and the conditions for the issue of duplicate licences;
- (i) the amount of fees for the grant of licences under this Act and their renewal and for the issue of duplicate licences;
- (j) the regulation of the schedule of fees or charges to be levied by a warehouseman for storing goods in the warehouse;
- (k) the standard weights, measures and classifications of goods to be used in warehouses under this Act;
- (l) the publication of the grant, suspension or cancellations of licences and the list of licensed warehouses;
- (m) matters arising out of sub-section (2) of section 11 of this Act;
- (n) all matters expressly required or allowed by this Act to be prescribed; and
- (o) generally for the efficient conduct of the business of warehouseman.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

The Mysore



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[No. 34

PART IV

Section I-A

**CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES.
THEREON.**

NOTIFICATION.

No. L.D. 420—Legis. 3-51-3, dated Bangalore, 21st May 1951.

Ordered that the accompanying Muslim Kazis Bill, (Central Bill No. 74 of 1950), Indian Penal Code and the Code of Criminal Procedure (Amendment) Bill, (Central Bill No. 91 of 1950), Coffee Market Expansion (Amendment) Bill, (Central Bill No. 100 of 1950), Rehabilitation Finance Administration (Amendment) Bill, (Central Bill No. 4 of 1951), Parliament Library Bill, (Central Bill No. 8 of 1951), Sea Customs (Amendment) Bill, (Central Bill No. 11 of 1951), Dowry Bill, (Central Bill No. 25 of 1951), Dowry Restraint Bill, (Central Bill No. 27 of 1951), Essential Supplies (Temporary Powers) Amendment Bill, (Central Bill No. 28 of 1951), Dowry Restraint Bill, (Central Bill No. 29 of 1951), Food and Drugs Bill, (Central Bill No. 30 of 1951), Insurance (Amendment) Bill, (Central Bill No. 31 of 1951), All-India Bar Councils Bill, (Central Bill No. 34 of 1951), Muslim Wakfs Bill, (Central Bill No. 36 of 1951), Rajghat Samadhi Bill, (Central Bill No. 37 of 1951), Indian Tariff (Second Amendment) Bill, (Central Bill No. 39 of 1951), Visva-Bharati Bill, (Central Bill No. 40 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 21st April 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

PART II—Section 277

Bills and Reports of Select Committees on Bills.

PARLIAMENT OF INDIA.

The following Bills were introduced in Parliament on the 12th April, 1951 :—

BILL No. 74 OF 1950

A Bill to provide for the appointment of persons to the office of Kazi and for performing and keeping a record of marriages and for the appointment of Tribunals for trying and deciding cases of divorce and dissolution of marriage amongst Muslims.

BE it enacted by Parliament as follows :—

1. *Short title, commencement and extent.*—(1) This Act may be called the Muslim Kazis Act, 19

(2) It shall come into force at once.

(3) It extends to the whole of India.

2. *Appointment of Kazis and Tribunals.*—(1) In accordance with the provisions contained in this Act State Governments shall appoint persons with proper qualifications as Kazis for presiding at Muslim marriages and performing other religious ceremonies, at which the presence of Kazi is necessary according to Muslim Law and usage. The State Governments shall further appoint Tribunals for deciding suits relating to divorce and dissolution of marriages amongst Muslims.

(2) For the purpose of selection and nomination of candidates for the posts of Kazis and for the membership of the Tribunals, the State Government shall appoint in each District, a committee, called the District Committee.

3. *Composition, term and duties of District Committees.*—(1) The District Committee shall consist of the following members :—

(a) The District Judge of the District who shall also be the president of the District Committee.

(b) The Collector or the Deputy Commissioner of the District who shall also be the convenor of the District Committee.

(c) One Muslim Vakil or Advocate elected by the Muslim Vakils and advocates of the District.

(d) One Muslim member of a Municipal Board of the District elected by the Muslim members of the Municipal Board of the District.

(e) Two Ulemas elected by the Ulemas of the District holding certificates of Colleges mentioned in Schedule 'A' to this Act.

(f) All the Muslim members of the Legislative Assemblies of States, and Parliament.

(2) The members shall hold office for a period of five years but in the case of a seat falling vacant during this period the vacancy shall be filled up by the election of a member from the class to which the late member belonged and such member shall hold office for the remaining period.

(3) The quorum of the District Committee shall be five.

(4) The duties of the District Committee shall be;

(a) to make recommendations to the State Government about the number of Kazis necessary for the District and their proposed jurisdictions.

(b) to make recommendations to the State Government about the number of Tribunals for trying divorce and dissolution of marriage suits and their proposed jurisdictions.

(c) to recommend to the Local Government the names of persons, with requisite qualifications, who are to be appointed as Kazis and as members of the Tribunals.

(d) to supervise the work of Kazis and Tribunals of the District and to make occasional reports about their work to the Government.

4. *Procedure for the appointment and removal of Kazis.*—(1) The Kazi shall be appointed by the State Government on the recommendation of the District Committee, and shall not be removeable from his office, but for incapacity or misconduct in the discharge of his public duties, or acts of profligacy in his private conduct, proved to the satisfaction of the State Government.

(2) The District Committee shall report to the State Government every instance in which it may appear to them that any Kazi in the District is incapable, or in which it may be proved to their satisfaction that he has been guilty of negligence or misconduct in the discharge of his public duty or of acts of profligacy, in his private conduct.

5. *Qualifications for the post of a Kazi.*—(1) For an appointment to the post of a Kazi a person must be educated, honest, conscientious and well versed in questions relating to marriages, divorce and dissolution of marriages:

Provided that for appointment to the Tribunal for dissolution of marriages he shall have obtained a certificate from any of the Islamia Schools mentioned in Schedule 'A' to this Act, and further shall have passed an examination of the said Schools in Heilat-un-Najaza and Alamgiri (Chapters on *Nikah* and *Talak* only) held specially for the purpose.

(2) In making appointments to the post of a Kazi, preference shall be given to a person who in addition to the qualification mentioned in sub-section (1) is held in esteem by the Muslims of the city, town or purganah in which he is to hold office, due to the status if his family or belongs to a family in which the post of Kazi had been hereditary in the past.

6. *Appointment, qualifications, and removal of Naib Kazis.*—(1) Subject to the approval of the District Committee a Kazi shall have power to appoint one or more Naib Kazis.

(2) A Naib Kazi shall be required to be literate and conversant with questions relating to marriages.

(3) A Kazi shall have power to remove his Naib Kazi.

7. *Maintenance of records of marriages and suits.*—(1) The Kazi either by himself or through his Naib Kazi shall keep a regular record of marriages taking place within his jurisdiction, giving the names of the parties to the marriage; of the guardian of the marriage—if any—of the vakil—if any, of the witnesses to the marriage, and of the person who performed the *nikah* ceremony, and the record shall be signed by all of them. The age of the parties, the fact as to whether the marriage is a first or second one, the amount of dower—with details of prompt and deferred, the date of marriage and the date of entry shall also be recorded. A copy of the record shall be given to each of the parties.

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(2) Subject to the provisions of sub-sections (2) and (3) of section 8 when an entry is made in the record of Kazi regarding marriages which have not been performed by the Kazi or one of his Naibs all the details mentioned in sub-section (1) of this section shall be filled up but the record may be signed by the parties and their guardians if any, only :

Provided that before making the entries the Kazi shall satisfy himself as to the factum of marriage, and would make remarks to the effect in the register as to whether he considers it to be genuine or otherwise. For this purpose the Kazi may get the record signed by such other persons as were present at the time of marriage.

(3) The Kazis who are members of a Tribunal for dissolution of marriages shall further keep record of the suits tried by the Tribunal giving details in accordance with the rules framed by the State Government in this behalf.

8. *Marriage fees and the right of parties to a marriage.*—(1) The fees for every marriage shall be two rupees and eight annas. The parties to the marriage, however, may give any larger amount to the Kazi at their option.

(2) If in spite of invitation, a Kazi or Naib Kazi fails to attend a marriage, and the marriage is celebrated in their absence, the parties to the marriage and their guardians, if any, shall be entitled to get entries made in the record of the Kazi without payment of any fee within fifteen days of the marriage, and with the payment of two rupees and eight annas thereafter :

Provided that no entries shall be made after the lapse of thirty days after the marriage.

(3) If a marriage is celebrated without the information of Kazi or Naib Kazi by some other person the parties to the marriage and their guardians, if any, shall be entitled to get entries made in the record of the Kazi after payment of rupees five within fifteen days of marriage and with payment of ten rupees thereafter :

Provided that no entry shall be made after the lapse of thirty days of the marriage.

(4) Any person placing reliance or leading evidence in any civil or criminal suit in respect of marriage which was celebrated after this Act comes into force, and which is not entered in the register of the Kazi, shall have to pay a penalty of rupees fifteen before he can be allowed to place reliance on or lead evidence in respect of such marriage.

9. *Composition and functions of the Divorce and Dissolution of Marriage Tribunals.*—(1) The Tribunal which shall be appointed to decide the divorce and dissolution of marriage cases shall consist of the following members :—

- (i) one Kazi out of the Kazis of the District,
- (ii) two Muslim Vakils or Advocates from the Muslim Vakils or Advocates of the District ; and
- (iii) two Ulemas from the Ulemas of the District holding certificate of any of the Schools mentioned in Schedule 'A' to this Act.

(2) The District Committee shall make recommendations to the State Government of names of the members of the Tribunals according to sub-section (1) and the State Government shall make the appointments.

(3) The Tribunal shall try and decide suits relating to marriages, divorce and dissolution of marriages falling within its jurisdiction.

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10. *Procedure for obtaining a divorce or dissolution of marriage.*—(1) Any person desirous of having a divorce or getting a marriage dissolved, or getting a declaration to that effect may file a plaint in accordance with the provisions of the Code of Civil Procedure, 1908 (V of 1908), before the Kazi or a person appointed by the Kazi for receiving such plaints.

(2) A fee of fifteen rupees shall have to be deposited with each plaint. This sum shall be utilized for the expenses of the Tribunal and shall be at the disposal of the Kazi.

(3) The Kazi in consultation with the Tribunal shall fix dates for the filing of written statement and of the hearing of the suit.

(4) The summons on the defendant and on the witnesses shall be served through the Civil Court of the Lowest Grade having jurisdiction in the area, and the parties concerned shall have to deposit process fee and diet money in accordance with the rules of the Civil Court.

(5) The quorum of the Tribunal shall be three :

Provided that at least the same three members shall hear the suit throughout.

(6) The decisions of the suit shall be according to the opinion of the majority and in case of equality of votes the Kazi shall have a second or casting vote.

(7) The majority shall write the judgment and sign it, but the final order shall be signed by only one member, preferably by the Kazi if he happens to be with the majority.

11. *Term of appointment of members of the Tribunal.*—(1) The members of the Tribunal will be honorary, and shall be appointed for a period of five years, but would be eligible for re-appointment after the expiry of their term :

Provided that if during the hearing of the suit the period of a Tribunal or of one of its members comes to a close, even then they will have a right to finish the suit or suits, but they will not be entitled to hear new suits.

(2) If during the term of the Tribunal a vacancy falls, due to the resignation, retirement, death or other cause, it would be filled up by nomination according to section 9 from the group from which such member had been nominated :

Provided that so long as the number of the members of the Tribunal does not fall below three, nothing done by the Tribunal shall be deemed to be invalid merely by the reason that the number of the members of the Tribunal was at any time less than five.

12. *Powers of the Tribunal in respect of the dower-debt.*—The Tribunal shall have no power to pass any judgment in respect of any dower-debt except that it may record a compromise between the parties, in respect of renunciation of dower-debt or part thereof, in lieu of dissolution of marriage.

13. *Remedy against the decision of the Kazi.*—(1) Any one dissatisfied with the judgment and decree of the Tribunal may apply to the Kazi to send the record to the District Judge for obtaining his opinion thereon.

(2) On the presentation of such an application the Kazi shall send the whole record to the District Judge with a request to give his opinion thereon both on matters of fact and of law.

(3) The District Judge after notice to the parties and hearing such of them as want to be heard shall give his opinion and send back the record to the Kazi,

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and the Kazi shall pass judgment and decree according to the opinion of the District Judge :

Provided that the District Judge may send the record to any one of his Subordinate Courts having the power of hearing appeals under the Code of Civil Procedure, 1908 (V of 1908), to give its opinion, and the opinion of such court shall have the same effect as the opinion of the District Judge.

14. *Remedy against the decision of the District Judge.*—(1) Any party dissatisfied with the opinion of the District Judge may apply to the Kazi for sending the record of his case to the High Court for opinion.

(2) On the presentation of such an application the Kazi shall send the record with the opinion of District Judge to the High Court.

(3) The High Court shall after notice to the opposite party give its opinion on the same points on which it hears second appeals under section 100 of the Code of Civil Procedure, 1908 (V of 1908).

(4) The procedure provided by the Code of Civil Procedure, 1908 (V of 1908), for the hearing of the second appeals from the decree shall be followed for the disposal of these cases.

(5) On receipt of the opinion of the High Court the Kazi shall pass a decree in accordance with the opinion of the High Court.

15. *Proceedings before the Tribunal.*—All the proceedings before the Tribunal shall be in accordance with the Code of Civil Procedure, 1908 (V of 1908), and the Tribunal for purposes of trial of suits under this Act shall be deemed to be a Court.

16. *Power of the State Governments to make rules.*—(1) The State Government may make rules consistent with this Act for the purpose of carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government shall have power to make rules with reference to the following matters :—

(a) For the election of the members of the District Committee under section 3.

(b) For the selection and nomination of the Kazis and members of the Tribunal under sections 4 and 9.

(c) For the holding of the meetings of the District Committee and the procedure to be adopted by the Committee.

(d) For the reports to be made by the District Committee to the State Government.

17. *Power of the State Governments to alter the Act.*—The State Government shall have power to make alterations in this Act in the following matters :—

(a) Making necessary amendments, alterations or additions to the entries required to be made in the records under section 7.

(b) Increasing or decreasing the fees prescribed in section 8 of the Act.

(c) Making necessary amendments, alterations in the list of Schools or Colleges given in Schedule 'A' to this Act.

18. *Repeal of Act XII of 1880.*—The Kazis Act, 1880 (Act XII of 1880) is hereby repealed.

SCHEDULE A 432

(See sections 3, 5, 9 and 17)

List of Approved Islamiah Schools and Colleges

Darul Ulum, Deoband.

Mazahirul Ulum, Saharanpur.

Madarash Khankah Imdadia, Thana Bhawan.

Madarsah Shahi, Moradabad.

Madarsah, Amroha.

Madarsah, Gulauti.

Madarsah, Budaon.

Madarsah, Bareilly.

Madarsah Illahiat, Kanpur.

Arabic Madarsah, Allahabad.

STATEMENT OF OBJECTS AND REASONS

According to Muslim Law the decree of Kazi duly appointed by the State is necessary for certain socio-religious and religious matters such as dissolution of marriages. In addition to these the Kazi is to preside and perform certain ceremonies such as the marriage ceremony and is to conduct the Juma and Id prayers. After the settlement of Muhammadans in India, Kazis were appointed by the State for the cities, principal towns and in the purganahs for performing all the duties allotted to them by the Muslim Law. On the inception of the British Rule their status was recognised by the British Government also. Regulation XXXIX of 1793 was the first one in this connection. It was intended to provide for the recognition and appointment of Kazis and Kazi-ul-Kuzzat.

Gradually similar Regulations and Acts were passed for other provinces also. In addition to the Kazis, however, there used to be Hindu and Mohamman Law Officers attached to the courts to help those courts in the administration of Hindu and Mohamman Law respectively—the courts at the time having had no training in those branches of law. This had become necessary as the East India Company was gradually transferring the administration of justice from the hands of Indians to those of the English Judges—and was thus necessarily a transitory stage. It appears that in 1864 Hindu and Mohamman Law Officers were deemed to have served their purpose in having given the necessary training to the English Judges and having produced sufficient quantity of legal precedent to guide future courts. They were no more required and were thus removed by Act XI of 1864. But along with the Hindu and Mohamman Law Officers, the Regulations and Acts relating to Kazis were also repealed.

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The Late Sir Ahmad Khan brought a Bill in the Legislative Council in 1880, which was passed as Act No. XII of 1880 and was named Kazis Act. That Act authorized the Local Government to appoint Kazis for any particular area on the desire of the Muslim community living in that area, but gave him absolutely no powers.

Thus it is only to meet a well recognized and old standing need of the Muslim community that this Bill is being introduced. Its scope is very restricted as it gives much smaller powers to the Kazi than the functions that were allotted to him under the Muslim Law or were even recognized by the earlier British Legislature. It deals chiefly with the registration of marriage, which is effected by the Kazis and for the disposal of suits relating to marriage, divorce and dissolution of marriages for which a tribunal consisting of a Kazi, an *Alim* and a *Vakil* has been proposed. As the Muslim personal law in this matter is very strict, provisions of appeals to the District Judge and the High Court have been effected in the form of opinion from those courts. While this would not very much alter the procedure in Indian Courts, it would meet the requirements of Muslim Law, and it is expected that the long-felt want of the Muslim community would be met by this Bill.

MOHAMMAD AHMAD KAZMI.

BILL No. 91 OF 1950

A Bill further to amend the Indian Penal Code (XLV of 1860) and the Code of Criminal Procedure (V of 1898).

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 195 .

(2) It shall come into force at once.

2. *Amendment of section 375, Act XLV of 1860.*—In section 375 of the Indian Penal Code (XLV of 1860) in clause 'Fifthly' for the word "sixteen", the word "eighteen" shall be substituted.

3. *Amendment of section 376, Act XLV of 1860.*—To section 376 of the Indian Penal Code (XLV of 1860) the following shall be added at the end, namely :—

"or unless the woman is between sixteen and eighteen years of age and is a consenting party to the sexual intercourse in which case he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both".

4. *Amendment of Schedule II, Act V of 1898.*—In Schedule II to the Code of Criminal Procedure, 1898 (V of 1898) before the entry relating to the heading

'in any other case' against section 376 of the Indian Penal Code (XLV of 1860) the following shall be inserted, namely :—

"If the sexual intercourse was with a woman between sixteen and eighteen years of age and she was a consenting party	—Ditto—	—Ditto—	—Ditto—	Compoundable	Imprisonment of either description for 2 years or fine or both	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the First Class"

STATEMENT OF OBJECTS AND REASONS

This Bill is designed to raise the age of consent of girls in extra-marital cases of rape to 18 years from 16 years as it is at present. As to the age of consent the Committee recommended the raising of age to 18 years but the recommendations have not been given effect to so far.

2. Now under the present stress of civilisation when better and more extensive opportunities exist for college and other kinds of education and employment in factories and offices, a young girl is more exposed than before and requires more protection. The age of a girl between 16 and 18, when she has no experience of the world, is the age when the law should cast its protecting wings around her. Her immature judgment and inexperience of worldly affairs entitles her to be treated as not fully grown up and nobody should be allowed to take advantage of her undeveloped intellect. In the eye of the law a girl of 18 is an infant, not capable of disposing of her properties. Obviously, therefore, the age of consent at the extra-marital case should not be less than 18.

3. A girl of 16 to 18, though not possessed of full developed intellect, is still in some cases fairly competent to understand consequences as well to express her mind and represent her feelings. In some cases young students or workers may be victimized and situations may arise when the enormity of the offence is very much mitigated by the surrounding circumstances. In such cases the parties should have the power of compromise in their own hands to avoid harassment of the law. It is therefore expedient to make the offence compoundable when the age of the girl is between 16 and 18 years.

In the present circumstances of the society, it is both necessary to give protection to young girls below 18 years by raising the extra-marital age to 18 and at the same time not to treat the offender very harshly in case the girl is a consenting party.

THAKUR DAS BHARGAVA.

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BILL No. 100 OF 1950

A Bill further to amend the Coffee Market Expansion Act, 1942.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Coffee Market Expansion (Amendment) Act, 19

2. *Amendment of section 4, Act VII of 1942.*—After clause (d) of subsection (2) of section 4 of the Coffee Market Expansion Act, 1942 the following new clauses shall be inserted, namely :—

“(e) three persons representing the Robusta coffee growers, one each to be nominated, in consultation with the Robusta coffee growers, by the Governments of Madras and Mysore and one to be nominated by the Chief Commissioner of Coorg in consultation with the Robusta coffee growers in Coorg.

(f) one person nominated by the Robusta Coffee Growers Association of South India, Pollibetta, Coorg; and

(g) two persons to be elected by Parliament to represent consumers’ interests.”

STATEMENT OF OBJECTS AND REASONS.

There are two distinct varieties of coffee grown in India viz., Arabica Coffee and Robusta Coffee. As much as one-third of the quantity of coffee produced in India is the Robusta variety and large acreages of new plantations are now covered by this variety of coffee. This coffee is largely used to blend the Arabica Coffee and in the market fetches almost the same price as that of the Arabica variety or a little less. But the Robusta coffee growers feel that in the Coffee Board their interests are not properly looked into because they have practically no representation on the coffee board. The Bill seeks to provide at least four seats exclusively to Robusta coffee growers. The consumers’ interests also are proposed to be represented by enabling Parliament to send two members to the coffee board as in the case of the Central Tea Board.

C. M. POONACHA.

BILL No. 4 OF 1951

A Bill further to amend the Rehabilitation Finance Administration Act, 1948.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Rehabilitation Finance Administration (Amendment) Act, 19

2. *Amendment of Section 2, Act XII of 1948.*—In Section 2 of the Rehabilitation Finance Administration Act, 1948 (hereinafter referred to as the said Act) after clause (b) the following new clause be inserted, namely :—

“(bb) ‘The Chief Administrator’ means the person who shall not be a retired official or shall be on the verge of retirement but he shall be a person of age between 40 and 45;”

3. *Amendment of Section 4, Act XII of 1948.*—In sub-section (1) of Section 4 of the said Act,—

- (i) in clause (a) the words “who shall be called the Chief Administrator” shall be omitted; and
- (ii) in clause (b) for the word “four” the word “two” shall be substituted.

4. *Amendment of Section 10, Act XII of 1948.*—In Section 10 of the said Act,—

- (i) in clause (a) —
 - (a) the words “a Deputy Chief Administrator and”; and
 - (b) the word “other” shall be omitted; and
- (ii) in clause (b) the words “the Deputy Chief Administrator” shall be omitted.

5. *Amendment of Section 13, Act, XII of 1948.*—In Section 13 of the said Act,—

- (i) in sub-section (3) for the figure “6” the figures “4½” shall be substituted; and
- (ii) after sub-section (3) the following new sub-section shall be inserted, namely :—

“(3A) All loan applications received from the displaced persons shall be disposed of within three months from the receipt of such applications.”

STATEMENT OF OBJECTS AND REASONS.

This amending Bill is brought to improve the working of the Administration after an experience of nearly two years. At present a large number of applications are not disposed of over a period ranging from six months to 12 months with the result that the displaced persons who should enjoy the benefits granted by the Government as speedily as possible are deprived of these benefits. There are instances where the applicants having failed to get money within the shortest period possible, had either to leave the place or occupy themselves in other activities. It is essential for the expeditious disposal of such applications that the person at the head should be a person of the age between 40 and 50.

It is also proposed to amend Section 4 with majority of persons who are attached with the people, particularly displaced persons who can understand their difficulties.

It is also intended to amend Section 13 (3) with the object of giving more relief to displaced persons by charging them only 4½ per cent interest instead of 6 per cent.

R. K. SIDHVA.

437 BILL No. 8 OF 1951

A Bill to provide for building up an up-to-date and comprehensive Library for Parliament.

WHEREAS it is necessary, for building up an up-to-date and comprehensive Library for the Parliament of India, to make arrangements to secure copies of every book, publication, periodical, etc., including maps, illustrations, photographs printed, lithographed, or photographed, in any language, in any part of the Union of India ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Parliament Library Act, 19

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the President may by order appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Author” includes the writer, composer, compiler, annotator, commentator, or editor of a book, paper, periodical, or publication, or a cartoonist, or illustrator, draftsman, painter, and any other person whose work is included in the form of writing, annotation, compilation, editing, drawing, illustration, cartoon, map, or such like-material, in a book or published separately.

(b) “Book” shall include any work in writing, paper, periodical, pamphlet, or publication, printed and published or lithographed, whether offered for sale or otherwise ; and every part or division of a book, pamphlet, sheet of letter press, sheet of music, map, plan, drawing, illustration, cartoon, graph, chart, or table, separately published but shall not include any second or subsequent edition of a book, unless such edition contains additions, annotations, or alterations, either in the letter press or in the maps, prints, or other engravings, belonging thereto, or is an abridgement of that book.

(c) “Composer” shall mean and include the composer of a musical work or of musical notation, or dance choreograph.

(d) “Library” means and includes the Library attached to the Parliament of India.

(e) “Printer” means and includes the proprietor or manager of a printing press, where the copies of a book are multiplied, and who is registered as the keeper of such a printing press.

(f) “Publisher” means and includes any person, firm, or company, carrying on business as publisher of books, and declared in any book to be publisher thereof.

Explanations.—(a) If in any case there is more than one person contributing to the making of a book in its several parts of writing, commentary, or illustrations, etc., separately, the term “Author” shall mean and shall include those composing and providing the actual thought and material contained in that book, whether published or otherwise ; while those who have supplied the commentary, illustration, or annotation or ending shall be distinguished from the author, by the addition of an appropriate term giving the proper designation and contribution of each such contributor.

(b) Where there is more than one person jointly concerned in writing, or providing the actual thought and material contained in a book, they shall be known as joint authors.

(c) For the purpose of this section the expression "Author", "Printer", "Publisher" and "Composer" includes the heirs, assignees or the legal representative of a deceased Author, Printer, Publisher or Composer, respectively.

(d) Where in any case the same person acts as author, printer or publisher, or combines in himself more than one of these capacities, his responsibilities under this Act shall be the same as that of all of them jointly, and each severally.

3. *Copies of books to be delivered to Secretary to Parliament of India.*—

(1) The publisher (including author or printer) of every book printed, lithographed, or photographed, and published in any State in the Union of India shall, after this Act comes into force, furnish, at his own expense, within one calendar month of the date of such printing, lithographing, photographing or publishing, to the Secretary to Parliament of India who shall give, or cause to be given, a written receipt for the same, three copies of each such book or work printed, photographed, lithographed and published in any language, in any part of the Union of India for use in the Library.

(2) The copies so delivered under sub-section (1) to the Secretary to Parliament shall be complete copies of the entire book, including all maps, charts, graphs, tables, notes, illustrations, sketches, drawings, wood-cuts, or photogravures included therein, printed on and stitched or sewn, and bound and got up in the best paper in the same manner as the best copies of the book published:

Provided that in the case of any book of which only a number of copies have been printed on superior paper and sewn or stitched and bound in a better manner and material, whether for presentation or for sale at a price higher than that charged for the ordinary edition, the copies required to be so furnished under this section shall be of the better or superior edition.

4. *Application.*—Without prejudice to any rights or privileges of the Government of India or the Government of a State, the provisions of this Act shall also be applicable to any work which has been prepared or published by or under the direction or control of any Government department.

5. *Penalty for offences under the Act.*—If the Publisher fails to comply with the provisions of this Act, he shall be liable on summary conviction to a fine not exceeding rupees one hundred in respect of each book, or each demand by the Secretary to Parliament, in addition to the price of the copies of the book required to be furnished free of cost under this Act; and the fine shall be paid to the Secretary to Parliament of India to be kept in a separate Reserve Fund to be used for the purposes of this Act.

6. *Appeal against the fine.*—Any person affected by an order under section 5 may, within thirty days of the date of such order appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court may direct that execution of the order be stayed pending consideration of the appeal.

7. *Court to try offences under the Act.*—No Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence against this Act.

8. *Repeals.*—The provisions of the Indian Copyright Act 1914 (III of 1914) and the Press and Registration of Books Act, 1867 (XXV of 1867) in so far as they relate to the transmission of copies of Books, etc., to the British Museum or the Secretary of State are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

The most important National Libraries of the world, such as the British Museum, the Congressional Library in the United States, or the Bibliotheque Nationale of France, are built up and kept up-to-date by requiring copies of all books, etc., printed and published within the jurisdiction of the countries concerned, to be supplied free of cost to such central institutions, under the authority of some National legislation.

In the United States as well as in Britain the Copyright legislation utilised to achieve this object.

During the British regime, the Government of India issued to require under the terms of the Press and Registration of Books Act, 1867 (XXV of 1867) a certain number of copies of every book, periodical, or publication, printed and published in British India, to be supplied, free of cost, for use in the British Museum. The copies supplied for this purpose were to be of the best bound and get-up. If of a book or publication, two editions were printed, one in small number of superior paper and richer binding, for presentation, and the other more numerous on ordinary paper and with ordinary binding and get up for sale in the market, only copies from the superior edition were to be supplied under that legislation. Pains and penalties were attached in regard to failure to comply with this legislation. There is no reason why that legislation should operate now, if it is still in force.

This Bill accordingly proposes to secure, for the use of the Library of Parliament, one copy at least of every book, or publication printed in India in any Indian or foreign language. The Library of Parliament, should contain all available material for every problem that may engage the attention of Parliament. It should in fact, be co-extensive with the problems of the entire public and private life in the country in all its aspect, and phases.

K. T. SHAH.

BILL No. 11 OF 1951

A Bill further to amend the Sea Customs Act, 1878.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Sea Customs (Amendment) Act, 19

2. *Amendment of section 87, Act VIII of 1878.*—In section 87 of the Sea Customs Act, 1878 (VIII of 1878), (hereinafter referred to as the said Act) ; after the word “ assessed ” the words “ within fifteen days of such delivery ” shall be inserted.

3. *Amendment of section 88, Act VIII of 1878.*—After the Second Proviso to section 88 of the said Act, the following new proviso shall be added, namely :—

“Provided further that if the owner does not clear the goods on the grounds that he disputes the correctness of the order of classification of the goods or the amount of duty levied thereon and he intimates, in writing, his intention to appeal against such order the sale of such goods shall not be proceeded with until the period of appeal has expired or in case an appeal has been filed in time, a final decision has been made thereon.”

4. *Amendment of section 89, Act VIII of 1878.*—In section 89 of the said Act, for the word “may” the word “shall” shall be substituted.

5. *Amendment of section 174, Act VIII of 1878.*—In section 174 of the said Act the words “or Customs-Collector” shall be omitted.

6. *Substitution of new section for section 182, Act VIII of 1878.*—For section 182 of the said Act, the following section shall be substituted, namely :

“182. *Adjudication of confiscations and penalties.*—(1) The Central Government shall constitute at each major customs port a special tribunal consisting of a President who shall be a person qualified for appointment as a Judge of a High Court and two other members one of whom shall be a representative of a recognised commercial body in that port and the other shall be an officer nominated by the Government of India. Such Officer shall act as the Secretary to the tribunal.

(2) In every case, except the cases mentioned in sections 167, Nos. 26, 72 and 74 to 76, both inclusive, in which, under this Act, anything is liable to confiscation or to increased rates of duty,

or any person is liable to a penalty, such confiscation, increased rate of duty or penalty may be adjudged—

(a) without limit, by special tribunal constituted under sub-section (1) of this section :

(b) up to confiscation of goods not exceeding one thousand rupees in value, and imposition of penalty or increased duty not exceeding five hundred rupees by a Deputy Commissioner or Deputy Collector of Customs, or a Customs-Collector :

(c) up to confiscation of goods not exceeding two hundred and fifty rupees in value, and imposition of penalty or increased duty not exceeding one hundred rupees by an Assistant Commissioner or Assistant Collector of Customs :

Provided that every officer authorised in this section to order confiscation or levy of penalty or increased rate of duty shall pass his orders within fifteen days of the presentation of the Bill of Entry or from date of receipt of reference from the lower authority as the case may be.”

7. *Amendment of section 188, Act VIII of 1878.*—In section 188 of the said Act,—(i) the existing provision shall be re-numbered as sub-section (1) and (ii) the following new sub-sections shall be added as sub-sections (2), (3), (4) and (5) namely :—

“(2) No decision on an appeal shall be arrived at except after hearing the appellant or a legal practitioner of his choice.

(3) A copy of the order passed by the appellate authority shall be served on the appellant, within twenty days from the date of such order,

(4) Within sixty days of the date upon which he is served with a copy of an order passed by an appellate authority, the appellant may by application accompanied by a fee of one hundred rupees require the appellate authority to refer to the High Court any question of law arising out of such order and the appellate authority shall within ninety days on receipt of such application draw statement and refer it to the High Court having jurisdiction over the port in respect of which the appeal arises.

(5) If on any application made under sub-section (4) of this section the appellate authority refuses to state the cases on the ground that no question of law arises the appellant may within six months from the date on which he is served with the notice of refusal apply to the High Court having jurisdiction over the port in respect of which appeal arises and the High Court, if it is not satisfied of the correctness of the decision of the appellate authority may direct that appellate authority to state the case and to refer it to the High Court and on receipt of such direction the appellate authority shall state the case and refer it to the High Court accordingly."

8. *Substitution of new section for section 193, Act VIII of 1878.*—For section 193 of the said Act, the following shall be substituted namely :—

"193. *Enforcement of payment of Penalty.*—When a penalty or increased rate of duty is finally adjudged against any person under this Act by any officer of Customs such officer, if such penalty or increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other officer of Customs.

When such an officer of Customs is unable to realise the unpaid amount thereof from such goods, such officer may notify in writing to any Magistrate within the local limits of whose jurisdiction such person or any goods belonging to him may be, the name and residence of the same person, and the amount of penalty or increased rate of duty unrecovered; and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if such penalty or increased rate had been a fine inflicted by himself."

9. *Amendment of Section 199, Act VIII of 1878.*—In section 199 of the said Act,—(i) the existing provision shall be renumbered as sub-section (1) and (ii) the following new sub-section (2) shall be added namely :—

"(2) Where such wharf or authorised landing or storing place belongs to the Port Trust or a body other than the Customs, the Collector or Customs shall have power to fix generally or by special order in any particular case the commencing and ending dates for levy of wharfage or demurrage and when clearance of a consignment is delayed pending the passing of an order by Collector, Tribunal or disposal of appeal by an appellate authority, no extra wharfage or demurrage beyond the free period of storage covered by the first wharfage shall be chargeable on such goods and the Collector of Customs shall issue a certificate to this effect when applied for before or after removal of goods."

10. *Amendment of section 207, Act VIII of 1878.*—To section 207 the following proviso shall be added namely :—

"Provided that the powers of ordering charge or remissions of wharfage and demurrage vested in the Collector of Customs under section 199 of this Act, shall be binding on the port authorities."

STATEMENT OF OBJECTS AND REASONS 442

The present law of Sea Customs contained in the Sea Customs Act (VIII of 1878) was enacted 72 years ago and although it has been amended in some matters as appeared expedient to Government under the British rule, it appears that the law is not suitable to the conditions existing to-day. Owing to the great rise in the rates of customs duty in all the articles of imports and exports and the penalties which the Customs officers are now authorised to inflict under the Act, it is absolutely necessary that the powers vesting in the Customs Authorities should be restricted and proper provision should be made for appeals. Necessary provisions have accordingly been made in this Bill. The suggested amendments to the Sea Customs Act, 1878 are therefore considered urgently necessary.

R. K. SIDHVA.

BILL No. 25 OF 1951.

A Bill to provide for certain matters relating to dowry.

BE it enacted by Parliament as follows :—

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Dowry Act, 19

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply in the first instance to Hindus, Budhists, Sikhs and Jains, but the Central Government may, by notification, direct that it shall apply to members of any other community also.

2. *Definitions.*—In this Act, unless the context otherwise requires :—

(a) “dowry” means any property transferred or agreed to be transferred as a part of the contract of any betrothal or marriage by one party to the betrothal or marriage or the father, mother or guard of that party to the other party to the marriage or to the father, mother or guardian of the other party, but does not include voluntary marriage gifts such as ornaments to a bride and dresses to a bridegroom the value of which do not exceed one thousand rupees.

(b) “marriage means a marriage between any two persons to whom this Act applies.

3. *Dowry to be held in trust for wife.*—(1) Where a dowry is given after the commencement of this Act, such dowry shall be deemed to be the property of the woman in connection with whose marriage it was so given.

(2) Where a dowry is received by any person other than the woman in connection with whose marriage it was given and is not transferred by that person to the woman that person shall be deemed to hold it in trust for the benefit and separate use of that woman, and, if that woman dies before obtaining the transfer, for the benefit and separate use of her heirs as if it is *stridhana* property.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to discourage the taking or giving of dowries. This practice has now assumed such large proportion that the parents are finding it difficult to get their daughters married and girls both educated and uneducated are averse to ideas of marriage on account of the trouble their parents are put to in finding the money for the payment of dowry.

The object of this Bill is however limited to ensuring that the dowry when given should be solely for the benefit of the bride.

It is intended by this Bill to constitute the holder of the dowry, who is generally either the bridegroom or his parents, a trustee of the dowry for the benefit of the woman so that she can always enforce her right at any moment. This Bill also intends to make her economically independent.

G. DURGABAI.

BILL No. 27 OF 1951.

A Bill to provide for restraining the taking or giving of dowry in connection with marriages and for matters incidental thereto.

BE it enacted by Parliament as follows :—

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Dowry Restraint Act, 19

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It shall apply in the first instance to Hindus, Buddhists, Sikhs and Jains, but the Central Government may, by notification, direct that it shall apply to members of any other community also.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “dowry” means any property transferred or agreed to be transferred as a part of the contract of any betrothal or marriage by one party to the betrothal or marriage or the father, mother or guardian of that party to the other party to the marriage or to the father, mother or guardian of the other party, but does not include voluntary marriage gifts such as ornaments to a bride and dresses to a bridegroom, the value of which do not exceed one thousand rupees.

(b) “marriage” means a marriage between any two persons to whom this Act applies.

3. *Penalty for taking dowry.*—A person who takes dowry shall on conviction be punishable with simple imprisonment which may extend to six months or with fine which may extend to the amount or value of the dowry taken or with both.

4. *Penalty for giving dowry or abetment thereof.*—A person who gives dowry or abets the giving of dowry shall on conviction be punishable with

simple imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both.

5. *Penalty for dowry after solemnisation of marriage.*—A person who at any time within three years after the solemnisation of a marriage to which this Act applies demands either directly or indirectly from the parents or any other person who was the guardian of the woman before her marriage any payment which is in the nature of a dowry, shall be deemed to have committed an offence under section 3 of this Act and shall be punishable accordingly.

6. *Cognizance of offence.*—No court shall take cognizance of any offence punishable under this Act except on complaint made in this behalf, provided that every such complaint shall be accompanied by a deposit of fifty rupees as security against false, vexatious or frivolous proceedings.

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to punish the taking or giving of dowries. The practice of accepting money from the parents or guardians of the bride or the bridegroom by either party has done tremendous harm to the society. Parents sometimes incur heavy debts in paying this dowry. This Bill is, therefore, designed to do away with the evil practice of dowry.

JAYASHRI RAIJI.

BILL No. 28 OF 1951

A Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

Be it enacted by Parliament as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Essential Supplies (Temporary Powers) Amendment Act, 1951.

(2) It shall come into force at once.

2. *Amendment of section 7, Act XXIV of 1946.*—In sub-section (1) of section 7 of the Essential Supplies (Temporary Powers) Act, 1946 (hereinafter referred to as the said Act) the following shall be added at the end, namely:—

“unless for reasons to be recorded the court is of opinion that it is not necessary to direct forfeiture in respect of the whole, or as the case may be any part of the property”

3. *Substitution of new section for section 9, Act XXIV of 1946.*—For section 9 of the said Act, the following section shall be substituted namely:—

“9. *Relating to Corporations.*—(1) It shall be the duty of every company and other body corporate to nominate any of its directors, managers or other officers of the company or other body corporate to be responsible for the due compliance of the orders made under section 3.

(2) In case the company fails to make nomination as required by sub-section (1) all the directors of the company shall be deemed to be responsible for the due compliance of the orders made under section 3.

(3) If the person contravening the orders made under section 3 is a company or other body corporate any person nominated under sub-section (1) shall be deemed to be guilty of such contravention unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention."

STATEMENT OF OBJECTS AND REASONS

The provisions of law contained in section 7 of the Essential Supplies (Temporary Powers) Act, 1946 are unnecessarily restrictive of the discretion of the courts when the contravention of order under section 3 of the Act in respect of cotton textiles takes place. It may happen as it does that the person contravening the order is not the owner of goods and in such a contingency an innocent owner is unnecessarily injured by an order for forfeiture. This is not desirable and is opposed to fundamental rights of property. The ends of justice will be duly secured if the provisions relating to forfeiture of textile goods are governed by the provisions of law contained in section 7 of the Act in regard to foodstuffs.

The provisions of section 9 relating to the liability of directors, managers or secretaries or other officer or agent in regard to offences by corporations are extremely wide. There are cases in which absent directors even when business of the company is run and controlled by managing agents and practically the directors have no voice in the administration, have been challaned by police resulting in great harassment to innocent persons. It is unintelligible why the manager or secretary whose duty does not require them or place them in a position to control and prevent contravention of orders made under section 3 of the Act should normally come within the mischief of the rule enunciated in section 9 of the Act. It is more desirable that in every company a responsible officer of the company or director be nominated for complying such orders and made responsible for contravention if any and unless he proves want of knowledge or exercise due diligence he may be deemed to be guilty. The change of law, therefore, is necessary in the interest of justice and enforcement of compliance of orders made under the Act.

THAKUR DAS BHARGAVA.

BILL No. 29 OF 1951

A Bill to restrain the custom of taking or offering of dowry in marriages.

BE it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Dowry Restraint Act, 19

(2) It extends to the whole of India except the State of Jammu and Kashmir.

3. It shall come into force at once, on such date or dates as the Government may by notification in the official Gazette appoint.

2. *Definitions*.—In this Act unless there is anything repugnant in the subject or context,—

(a) “dowry” means anything paid in cash or kind as a part of the contract of any betrothal or marriage, by the father, mother, or guardian of a bride to a bridegroom, or to his father, mother or guardian and *vice versa*, and includes :—

(a) *Dehej*; and

(b) price of a bride, but does not include “*Stridhan*” as understood in Hindu Law and “*Mahr*” or dower as understood in Mohamedan Law.

(b) “marriage” means a contract or a ceremony for the union of a female and male under any custom or law for the time being in force.

3. *Punishment for accepting dowry*.—Any person who takes dowry shall on conviction be punishable with simple imprisonment which may extend to three months or with fine which may extend to the amount or value of the dowry taken or with both.

4. *Penalty for giving dowry or abetment thereof*.—Any person who gives dowry or abets the taking or giving of dowry shall on conviction be punishable with simple imprisonment which may extend to one month or with fine, which may extend to one thousand rupees or with both.

5. *Procedure for trying offences*.—An offence under section 3 or 4 of this Act shall be non-cognisable and shall be triable by a magistrate specially empowered in this behalf.

6. *Security against false or vexatious proceedings*.—No Court shall take cognisance of any case under this Act unless a complaint is filed and a sum of rupees fifty is deposited therewith as a security against any false or vexatious proceedings.

7. *Notice to show cause*.—No Court shall proceed with a complaint under this Act unless it gives the accused a chance to show cause why he should not be prosecuted under this Act.

STATEMENT OF OBJECTS AND REASONS

Among many communities in this country, there exists an evil custom of taking and offering dowry. As a result of this custom many persons have to pay exorbitant sums to secure bridegrooms for their daughters. Again, in some parts there is regular traffic of selling and buying girls. Under these circumstances, it is necessary to introduce legislation to eradicate this evil custom.

UMA NEHRU.

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BILL No. 30 OF 1951

A Bill to safeguard the quality and purity of food and drugs and to provide for penalties in case of certain offences relating thereto.

BE it enacted by Parliament as follows:—

CHAPTER 1

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Food and Drugs Act, 19

(2) It extends to the whole of India, including the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires:—

(a) “food” means any article used for food or drink for any person or animal, and includes articles used as components of any such article.

(b) “drug” means any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in any person or animal, and includes any article (other than food) intended to affect the structure or function of the body of any person or animal, and any article intended for use as a component of the articles in the two categories aforesaid.

(c) “prescribed” means prescribed by rules made under this Act.

(d) “regulations” means the regulations made by Government under this Act.

CHAPTER 2

GENERAL PROVISIONS AS TO FOOD AND DRUGS

3. *Composition of food and drugs.*—(1) No person shall add, or direct or permit any other person to add,—

(a) any substance to any food so as to render the food injurious to health; or

(b) any substance to any drug so as to affect injuriously the quality or potency of the drug,

with the intent that the food or drug may be sold to the public, or administered to any person or animal in that state.

(2) No person shall sell, or have in his possession for the purpose of sale, any food or drug to which any substance has been so added.

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence.

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4. *Offences relating to abstraction of constituents of food or drug.*—

(1) No person shall abstract, or direct or permit any other person to abstract, from any food or drug any constituent thereof so as to affect injuriously the nature, substance or quality of the food or drug with intent that it may be sold in its altered state,—

(a) without notice to the purchaser of the alteration; or

(b) whether with or without such notice, if in that state the food or drug does not comply with the relevant provisions contained in regulations or rules prescribed for the composition of food or drug; and

(2) a person who contravenes any of the provisions of this section shall be guilty of an offence.

5. *Offences relating to sale of food or drug to the prejudice of the purchaser.*—(1) If a person sells to the prejudice of the purchaser any food or drug which is not of the nature, or of the substance, or of the quality, of the food or drug demanded by the purchaser, he shall be guilty of an offence.

(2) In proceedings under this section it shall not be a defence to allege that the purchaser bought for analysis or examination such food or drug and was not therefore prejudiced.

6. *Labels.*—A label must—

(a) state explicitly what substance has been added to, or what constituent has been abstracted from, the food or drug; and

(b) be of adequate size, and have the notice of addition or abstraction distinctly and legibly printed and conspicuously visible.

7. *Offences relating to false labels and advertisement.*—(1) A person who gives with any food or drug sold by him a label, whether attached to or printed on the wrapper or container or not, which falsely describes that food or drug, or is otherwise calculated to mislead as to its nature, substance, or quality shall be guilty of an offence.

(2) A person who publishes, or is a party to the publication of, an advertisement which falsely describes any food or drug, or is otherwise calculated to mislead as to its nature, substance or quality, shall be guilty of an offence.

8. *Regulations as to food.*—Government may make rules for all or any of the following purposes namely:—

(a) authorising measures to be taken for the prevention of danger to health from the importation, preparation, transport, storage, exposure for sale, and delivery of food of various kinds intended for sale or having been sold for human consumption,

(b) requiring wrappers or containers enclosing or containing food of various kinds to be labelled or marked in accordance with the rules,

(c) prohibiting or restricting the addition of any substance to, and regulating generally the composition of, any food.

9. *Offences relating to the sale, etc., of the unsound food.*—(1) A person who—

(a) sells, or offers, or exposes for sale, or has in his possession, for the purpose of sale or of preparation for sale; or

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 (b) deposits with, or consigns to any person for the purpose of sale or of preparation for sale, any food intended for, but unfit for human consumption, shall be guilty of an offence.

(2) Where food in respect of which an offence under clause (a) of sub-section (1) has been committed was sold to the offender by some other person, that person also shall be guilty of an offence.

10. *Examination of food or drug by officers appointed by Central or State Governments.*—(1) Any officer, authorised by the Central or State Government may at any time examine any food or drug intended for human or animal consumption which has been sold, or is offered, or exposed for sale, or is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale, and, if it, appears to him to be unfit for human or animal consumption, may seize it and remove it in order to have it examined, and the person concerned proceeded against.

(2) An officer who seizes any food or drug under sub-section (1) shall inform the person in whose possession it was found, of his intention to have it and him dealt with, and any person who under section 9 may be liable to a prosecution in respect of the food or drug shall be entitled to be heard and to adduce evidence.

(3) If it is proved that any food or drug thus seized under this section is unfit for human consumption, it shall be condemned and destroyed, or be so disposed of as to prevent it from being used for human or animal consumption.

(4) If the food seized is not so condemned, it shall be returned to the person concerned and the authority shall compensate the owner of the food or drug for any depreciation in its value resulting from its seizure and removal.

CHAPTER 3

MILK AND MILK PRODUCTS

11. *Powers of Government to make regulations.*—(1) Government may make regulations for determining what deficiency in any of the normal constituents of milk, or what proportion of water, in a sample shall for the purposes of this Act raise a presumption, until the contrary is proved, that the article sampled is not genuine milk.

(2) Regulations made under this section shall be laid before Parliament as soon as may be after they are made.

12. *Offences relating to adulteration and sale of adulterated milks.*—(1) No person shall—

(a) add any water or colouring matter, or any dried or condensed milk or liquid reconstituted therefrom, to milk or *dahi* (curd) or *lassi* intended for human consumption; or

(b) sell, or offer, or expose for sale, or have in his possession for the purpose of sale, for human consumption any milk or *dahi* or *lassi* to which any addition has been made in contravention of the provisions of this sub-section.

(2) A person who contravenes any of the provisions of this section shall be guilty of an offence.

13. *Offences relating to adulteration of butter, ghee and false advertising.*—

(1) A person who sells, or offers, or exposes for sale, or has in his possession for the purpose of sale—

(a) butter which contains in it any animal fat or other adulterant; or

(b) ghee which is not wholly clarified butter but contains in it “vanaspati”, animal fat or other adulterant, shall be guilty of an offence.

(2) A person who publishes or is a party to the publication of an advertisement describing adulterated butter or ghee as pure butter or ghee shall be so guilty of an offence.

14. *Seizure of adulterants and other offences thereto.*—If any substance intended to be used for the adulteration of butter or ghee is found in a dairy or shop which deals only in such foods, the owner and occupier of the dairy or shop shall be guilty of an offence, and, if any oil or fat capable of being so used is found in such a place, it shall be presumed to be intended for such use, unless the contrary is proved.

CHAPTER 4

DRUGS

15. *Adulteration of drugs.*—A drug shall be deemed to be adulterated—

(a) if it consists in whole or in part of any filthy, putrid, or decomposed substance, if it has been prepared, packed or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or, if it is a drug, and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(b) if it purports to be or is represented as a drug, the name of which is recognised in official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium;

(c) if it is not subject to the provisions of clause (b) and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess; and

(d) if any substance has been mixed or packed therewith so as to reduce its quality or strength or substituted wholly or in part therefor.

16. *Offences relating to the adulteration of drugs.*—A person who adulterates a drug, or who sells, offers or exposes for sale, such adulterated or misbranded drug shall be guilty of an offence.

45(CHAPTER 5

ADMINISTRATION

17. *Duty of the Central and State Governments.*—It shall be the duty of the Central Government, and of every State Government to carry into execution within their area and to enforce the provisions of this Act with a view to securing that food and drugs are sold only in a pure and genuine condition.

18. *Appointment of public analysts and regulations prescribing their qualifications.*—(1) Every Government shall appoint in accordance with the provisions of this Act one or more persons, designated as “public analysts” to be analysts of food and drugs within their area.

(2) No person shall be appointed a public analyst unless he possesses either the prescribed qualifications or such other qualifications as Government may approve, and no person shall be appointed public analyst for any area who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in that area.

(3) A public analyst shall be paid such remuneration as may be fixed by Government.

(4) Regulations prescribing qualifications for the purpose of sub-section (2) of this section shall be laid before Parliament as soon as may be after they are made.

19. *“Sampling Officer”.*—(1) An authorised officer of the Central or State Government, may exercise such powers of procuring samples of food and drugs for analysis, or for bacteriological or other examination as are conferred upon him under this Act, and any such officer shall be referred to in this Act as a “sampling officer”.

(2) The sampling officer may purchase or take samples of any food or drug, or any substance capable of being used in the preparation of food or drug, found on premises which he has entered in the execution of his duties under this Act.

20. *Duties of the “sampling officer”.*—(1) If a sampling officer who has procured a sample of any food or drug considers that it should be analysed, he shall submit it to be analysed by the public analyst for the area in which the sample was procured.

(2) A person, other than a sampling officer, who has purchased any food or drug may submit a sample of it to be analysed by the public analyst for the area in which the purchase was made.

(3) The public analyst shall analyse as soon as practicable any sample sent to him in pursuance of this section, and give to the person by whom it was submitted a certificate in the prescribed form specifying the result of the analysis; provided that, in the case of a sample, submitted by a person other than a sampling officer, the public analyst may demand in advance such fee as may be prescribed.

21. *Submission of reports by public analysts to Government.*—(1) Every public analyst shall, at the end of every quarter, report to the authority by whom he was appointed, the number of articles which have been analysed

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by him under this Act in his capacity of public analyst during the preceding quarter and the result of each analysis.

(2) Every State Government shall transmit to the Centre at such time as may be prescribed, a copy of each quarterly report received by them from every public analyst.

(3) The aforesaid reports together with the reports from public analysts appointed by the Central Government shall be laid before Parliament at least once in every six months.

22. *Offences relating to obstruction to any person in the execution of the Act.*—A person who wilfully obstructs any person acting in the execution of this Act or of any regulation, order, or warrant made or issued thereunder shall be guilty of an offence.

CHAPTER 6

PENALTIES

23. *Punishment of offences under the Act.*—A person guilty of an offence under this Act shall be punishable with imprisonment for a term not exceeding two years, or with a fine not exceeding rupees one thousand or with both.

24. *Proceedings and Procedure under the Act.*—(1) In any proceedings under this Act, the production by one of the parties of a document purporting to be a certificate of a public analyst in the prescribed form, or of a document supplied to him by the other party as being a copy of such a certificate, shall be sufficient of the facts stated therein, unless, in the first mentioned case, the other party requires that the analyst shall be called as a witness.

(2) The court before which any proceedings are taken under this Act may, if it thinks fit, and upon the request of either party, shall, cause the part of any sample produced before the Court to be sent to the Government chemist, who shall make an analysis, and transmit to the Court a certificate of the result thereof, and the costs of the analysis shall be paid by the prosecutor or the defendant as the Court may order.

(3) If, in a case, where an appeal is brought, no action has been taken under sub-section (2), the provisions thereof shall apply also in relation to the Court by which the appeal is heard.

25. *Offences relating to wrong application of a certificate.*—A defendant who in any proceedings under this Act wilfully applies to any food or drug a certificate of analysis given in relation to any other food or drug shall be guilty of an offence.

CHAPTER 7

MISCELLANEOUS

26. *Powers of the Central Government to make regulations in respect of certain matters.*—Without prejudice to the generality of the provisions under which they are made, the Central Government may make regulations—

(a) to provide for the taking and examination of samples;

(b) to authorise the making of charges for the purposes of the regulations or for any services, performed thereunder, and to provide for the recovery of charges so made;

(c) to make such ancillary and incidental provisions as appear to Government to be necessary or desirable.

STATEMENT OF OBJECTS AND REASONS

The adulteration of food-stuffs and drugs is fast developing into a menace to the health of the nation. In fact it is becoming so common that the majority of people even appear rather indifferent to the problem and its serious consequences. A suitable Central enactment, embracing both food and drugs, has thus become a vital necessity. The Bill seeks to fulfil this purpose in a large measure and contains in it several features which distinguish similar legislation in the United Kingdom and the United States of America, countries which have registered a remarkable advance in this direction.

H. V. KAMATH.

BILL NO. 31 OF 1951

A Bill further to amend the Insurance Act, 1938

BE it enacted by Parliament as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Insurance (Amendment) Act, 19

(2) It shall come into force at once.

2. *Amendment of section 28, Act IV of 1938.*—In section 28 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(i) in sub-section (2) the following shall be added at the end, namely:—

“The forms of returns referred to in sub-section (1) and this sub-section will be prescribed by Government”; and

(ii) after sub-section (5), the following new sub-section (6) shall be added, namely:—

“(6) The forms of returns shall be so prescribed that they will also show the investments made out of the controlled fund referred to in section 27-A, with the necessary classifications and details.”

3. *Omission of section 28-A, Act IV of 1938.*—Section 28-A of the said Act shall be omitted.

4. *Amendment of section 29, Act IV of 1938.*—In section 29 of the said Act,—

(i) the *Explanation* to sub-section (3) shall be omitted;

(ii) in sub-section (4) for the words "within one year from such commencement" the following shall be substituted, namely:—

"within such time as is prescribed in an agreement recording a mutually settled arrangement for its repayment, such arrangement being arrived at with the consent of all the Directors present at a meeting and eligible to vote. In case no such agreement is arrived at, the same shall be repaid within five years from such commencement"; and

(iii) in sub-section (6) —

(a) for the words "the insurer" the words "any insurer" shall be substituted; and

(b) the words,—

(i) "granting the loan"; and

(ii) "of one year or three months, as the case may be" shall be omitted.

5. *Omission of section 31-A, Act IV of 1938.*—Section 31-A of the said Act shall be omitted.

6. *Omission of section 32-A, Act IV of 1938.*—Section 32-A of the said Act shall be omitted.

7. *Amendment of section 40-A, Act IV of 1938.*—In section 40-A of the said Act,—

(i) in clause (c) of sub-section (2) after the words "first year's premium" the words "and one per cent on each renewal premium" shall be inserted.

(ii) after sub-section (2) the following new sub-section (2-A) shall be inserted, namely:—

"(2-A) No Insurer shall pay or contract to pay to a Chief Agent and no Chief Agent shall receive or contract to receive by way of commission or remuneration in any form in respect of any policy of Life Insurance issued in India by an Insurer after the 31st December 1950, and effected through a Chief Agent an amount exceeding—

(a) where the policy grants an immediate annuity or a deferred annuity in consideration of a single premium, or where only one premium is payable on the policy, one per cent of that premium;

(b) where the policy grants a deferred annuity in consideration of more than one premium, four and a half per cent of the first year's premium; and one per cent of each renewal premium, payable on the policy; and

(c) in any other case, thirty per cent of the first year's premium and two and a half per cent of the first year's premium, payable on the policy.

Provided that in a case referred to in clause (c), an Insurer, during the first ten years of his business, may pay to a Chief Agent and a Chief Agent may receive from such an Insurer, thirty-two and half per cent of the first year's premium payable on the policy."

8. *Amendment of section 44, Act IV of 1938.*—In clause (b) of the proviso to sub-section (44) of the said Act, after the words “at least five years”,—

(i) the words “after his ceasing to act as such agent, he does not directly or indirectly solicit or procure insurance business for any other Insurer, and that” shall be inserted; and

(ii) the word “and” shall be omitted.

9. *Amendment of the Sixth Schedule, Act IV of 1938.*—In the Sixth Schedule to the said Act, in Part C, (i) for paragraph 2, the following shall be substituted, namely:—

“2. The special agent shall employ and keep employed at least five insurance agents and shall cause to be procured through insurance agents employed under him in each calendar year organized and completed new business amounting to not less than fifty thousand rupees assured.”; and

(ii) in paragraph 3 for the word “fifty” the words “thirty-three and one-third”, shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The following notes on Clauses indicate clearly the objects and reasons for the amendments proposed in this Bill:—

Clause 2.—Multiplicity and duplication of returns is not desirable. A form can easily be prescribed so as to exhibit in one form all the information required for the purposes of sections 27 and 27-A.

Clause 4.—Grants of advances to new agents and new special agents are unnecessary and inconsistent with the whole conception underlying the limitation of advances.

The period of one year allowed at present is too short and insures non-recovery rather than aiding or inducing recovery. The Act should aim at making actual and substantial recovery possible.

It is but proper that a person who makes a default should be prohibited from working for any Insurer. Otherwise there will be obvious anomalies and difficulties, in case defaulter is allowed, after the default, to work with another Insurer.

Clauses 5 and 6.—These new provisions will act as a deterrent to capable persons throwing their full weight into the expansion of business, and will act as unnecessary restrictions on the activities of persons of high and varied ability.

Clause 7.—Non-limitation of the expenditure on commission in the solitary case of the Chief Agent appears to be a grave omission in the Act. There is no reason why the principle of limitation of expenses which the Act extends to all and sundry is kept in abeyance with regard to the single category of the Chief Agent. The rates suggested are the average rates obtaining in India at present.

The Special Agency method of organization is a comparatively cheap method most suitable in the present condition of the business. It is calculated to extend and popularise life Insurance speedily. Hence the special

agency contract must be made attractive and remunerative. It must offer benefits of semi-permanent income to a person so that he will stick to the business as well as the Insurer. Hence the suggestion to provide for Renewal commission.

Clause 8.—It is not sound policy to provide for continuance of commission even in case of a person who joins another Insurer. This will exert a dissipative force amongst the workers of an Insurer. A smaller number of years is prescribed in Clause (b) of the Proviso to section 44 (1) as a condition of continuous service period in view of the smaller percentage provided in that case.

Clause 9.—The special agent should be judged on his organized work only. His personal work need not be taken into account when judging his eligibility to commission. He must employ and keep employed a sizable number of agents. Two is too small a number. The existing condition as to receipt of full year's premium is too harsh and repels intending workers. Such a condition is not imposed elsewhere in the Act where minimum qualifying business is laid down, e.g., in Part B of this Schedule which applies to Chief Agents.

P. S. DESHMUKH.

BILL No. 34 OF 1951

A Bill to provide for the constitution and incorporation of Bar Councils for High Courts and an All-India Bar Council for the Supreme Court.

BE it enacted by Parliament as follows :—

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the All-India Bar Councils Act, 19

(2) It extends to the whole of India and shall apply to the High Courts of Judicature at Fort William in Bengal, and at Madras, Bombay, Nagpur, Patna, Orissa, Punjab, and to such other High Courts within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, as the State Government may and by notification in the Official Gazette declare to be High Court to which this Act applies.

(3) This section and sections 2, 26, 27 and 28 shall come into force at once, and the State Government may, by notification in the Official Gazette, direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in respect of any High Court to which this Act applies on such date as it may by the notification appoint.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Advocate" means an advocate entered in the roll of advocates of the Supreme Court or of a High Court under the provisions of this Act.

(b) "Advocate-General" unless otherwise stated expressly, or by implication, when there is no Advocate-General, the Government

Advocate and, where there is no Advocate-General or Government Advocate, such officer as the State Government may declare to be the Advocate-General for the purposes of this Act;

- (c) "Court" includes all courts civil, criminal and revenue Courts established within the Union of India or by a State Government;
- (d) "Tout" means a person—
 - (i) who procures in consideration of any remuneration moving from any practitioner, the employment of the legal practitioner in any legal business; or
 - (ii) who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or
 - (iii) who for the purpose of such procurement frequents the precincts of civil or criminal Courts, or of revenue offices, landing stages, lodging places or other places of public resort.

CONSTITUTION OF BAR COUNCILS

3. *Constitution and Incorporation of Bar Councils.*—(1) For the Supreme Court a Bar Council shall be constituted in the manner hereinafter provided and shall be called the All-India Bar Council.

(2) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(3) The All-India Bar Council and the every Bar Council of an High Court so constituted, shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and to contract, and shall by the name "All-India Bar Council" or by name of the Bar Council of the High Court for which it has been constituted, as the case may be, sue and be sued.

4. *Composition of High Court Bar Councils.*—(1) The High Court Bar Council shall consist of the following members, namely:—

- (a) the Advocate-General;
- (b) ten members to be elected from the advocates practising in the districts in the following manner—

ten electoral units each comprising of a number of districts shall be constituted as single-member constituencies by the Bar Council, if there is one, otherwise by the High Court concerned, on a population basis. One member from each of the said constituencies shall be elected to the Bar Council;

- (c) five members to be elected by the advocates practising in the High Court:

Provided that in case the Bench of the High Court usually sits at more than one place, the Bar Council or the High Court, in case there is no Bar Council, shall by rules made in that behalf allocate the number of members to be elected from each of such places;

- (d) three members to be nominated from amongst the advocates by the High Court; and

(e) four members to be co-opted by the members mentioned in clauses (a), (b), (c) and (d) of this sub-section from amongst the judges of the High Court who had been advocates :

Provided that no advocate shall be eligible for membership who has not for less than ten years been entitled as of right to practise in the High Court.

(2) There shall be a Chairman and Vice-Chairman of each Bar Council. In States where there is an Advocate-General, he shall be the *ex officio* Chairman, while the Vice-Chairman shall be elected by the Bar Council in such a manner as may be prescribed :

Provided that in States where there is no Advocate-General, the Chairman of the Bar Council shall be elected by the Council in such a manner as may be prescribed.

5. *Term of Membership of the High Court Bar Councils.*—(1) The term of office of Advocate-General as a member of the Bar Council shall be till he holds that post.

(2) The term of office of members of the Bar Council mentioned in clauses (b), (c) and (d) of sub-section (1) of section 4 shall be nine years :

Provided that upon the first constitution of the Bar Council under this Act, the Chairman shall make such provision that one-third of the members holding seats shall retire every third year.

(3) The term of office of members co-opted under clause (e) of sub-section (1) of section 4 shall be five years or for the period they hold the office of a judge of the High Court, whichever is less.

(4) The seats falling vacant by death or retirement shall be filled in by election, nomination or co-option as the case may be from the members of the same class for the unexpired term :

Provided that the members who retire shall be eligible for re-election :

Provided further that the existence of a vacancy or vacancies at any time shall not invalidate the constitution of the Bar Council.

6. *Composition of All-India Bar Council.*—(1) The All-India Bar Council shall consist of the following members, namely :—

(a) the Attorney-General ;

(b) five members to be elected by the advocates practising in the Supreme Court ;

(c) two members from each of the Bar Councils of the High Courts elected by the members of those Bar Councils :

Provided that it will not be necessary that the members so elected are the members of the Bar Council also ; and

(d) two members to be co-opted by the members mentioned in clauses (a), (b), and (c) from amongst the Judges of the Supreme Court, who has been advocates.

(2) There shall be a Chairman and a Vice-Chairman of All-India Bar Council, and shall be elected by the Council in such a manner as shall be prescribed.

7. *Term of Membership of All-India Bar Council.*—(1) The term of office of Attorney-General as a member shall be till he holds that post.

(2) The term of office of the members elected under clauses (b) and (c) of sub-section (1) of section 6 shall be nine years :

Provided that upon the first constitution of the All-India Bar Council under this Act, the Chairman shall make such provision that about one-third of the members holding seats shall retire every three years.

(3) The term of office of members co-opted under clause (d) of sub-section (1) of section 6 shall be five years or for the period they hold office of the Judge of the Supreme Court whichever is less.

(4) The seats falling vacant by death or retirement shall be filled by election or co-option from the same class for the unexpired term :

Provided that the members who retire shall be eligible for re-election :

Provided further that the existence of a vacancy or vacancies at any time shall not invalidate the constitution of the Bar Council.

8. *Power to make rules regarding Constitution and procedure of Bar Councils.*—(1) Rules consistent with this Act, may be made to provide for the following matters, namely :—

- (a) the manner in which election of members of Bar Council shall be held; the manner in which the result of the elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided;
- (b) the filling of casual vacancies in the Council;
- (c) the convening of the meetings of the Council; and the quorum necessary for the transaction of the business thereat;
- (d) the manner of election and the respective terms of office of the Chairman, in cases where the Chairman is to be elected and of the Vice-Chairman; and
- (e) any other matter incidental or ancillary to the foregoing matters.

(2) In places where no Bar Council exists at the time of the coming in force of this Act, the first rules under this Act shall be made by the High Court, but the Bar Council may thereafter, add to, amend or rescind any rules so made.

(3) The first rules for the All-India Bar Council under this section shall be made by the Supreme Court but the All-India Bar Council may thereafter add to, amend or rescind any rules so made.

(4) No election of a member or members of the Council shall be called in question on the ground that the notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the Official Gazette of the Central Government in the case of the All-India Bar Council or of the State or each State in which the High Court exercises Jurisdiction, as the case may be, in case of Bar Council of the High Courts.

9. *Power of the Bar Councils to make Bye-laws.*—The Bar Council may make bye-laws consistent with this Act and any rule made thereunder to provide for any of the following matters, namely :—

- (a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary and the pay and allowances and other conditions of service of such officers and servants;

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- (b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers and duties of the Council which may be delegated to such Committees;
 - (c) the appointment and constitution of committees for the purpose of supervising legal education; and
 - (d) the appointment and constitution of the District Bar Council Committees and their powers and duties:

Provided that the bye-laws respecting clauses (a), (b) and (c) relating to All-India Bar Council shall be made by that Council.

ADMISSION AND ENROLMENT OF ADVOCATES

10. *Admission and Enrolment of Advocates.*—(1) No person shall be entitled as of right to practise in any High Court unless his name is entered in the roll of Advocates of the High Court maintained under this Act.

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

- (a) All persons who were, as advocates, vakils or pleaders, entitled as of right to practise in High Courts immediately before the date on which this section comes into force in respect thereof:

Provided that such person shall have paid in respect of the enrolment the stamp duty, if any, chargeable under the Stamp Act, and fees payable to the Bar Council, which shall be ten rupees;

- (b) all other persons who have been admitted to be advocates of the High Court under this Act:

Provided that they either paid a sum of one hundred rupees to the High Court and five hundred rupees to the Bar Council; or undertake to pay and pay a sum of twenty-five rupees per annum to the Bar Council:

Provided further that in case of persons paying annual fees, a certificate shall be issued annually entitling them to practise and they shall have a right to pay the prescribed amount in a lumpsum to the High Court and the Bar Council, any time, during the course of their practice and the liability for payment of annual fees shall cease thereafter:

Provided further that every advocate shall have to pay a fee of five rupees per annum to the Bar Council.

(3) Entries in the roll of advocates shall be made in the order of seniority: and such seniority shall be determined as follows, namely:—

- (a) all such persons as are referred to in clause (a) of sub-section (2) shall be entered first in the order in which they were respectively entitled to seniority immediately before the date on which this section comes into force in respect of the High Court; and

- (b) the seniority of any other person admitted to be an Advocate of the High Court under this Act after that date shall be determined by the date of admission:

Provided that, for the purpose of clause (b), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled:

Provided further that the seniority of any person admitted to be an Advocate of the High Court after the commencement of this Act, shall be determined by the date of his admission.

(4) The respective rights of pre-audience of advocates of the High Court shall be determined by seniority :

Provided that the Advocate-General shall have pre-audience over all other advocates and the Attorney-General shall have pre-audience over advocates including the Advocate-General :

Provided further that the advocates who have paid enrolment fees in a lumpsum shall have precedence over advocates who pay annual fees.

(5) The High Court shall issue a certificate of enrolment to every person enrolled under this section mentioning therein the terms of enrolment.

(6) The High Court shall send to the Bar Council a copy of the roll as prepared under this section and shall thereafter communicate to the Bar Council all alterations in and additions to the roll as soon as the same have been made.

(7) The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it.

(8) An Advocate enrolled on payment of annual fees shall not be entitled to practise unless he has paid the annual fee in advance, and has obtained a certificate for the current year. In case such an Advocate continues to practise without a certificate, he shall be liable to pay a fine which may extend to three hundred rupees.

(9) The annual fee of five rupees shall be payable to the Bar Council in advance during the course of enrolment and practice, and in case an advocate fails to pay it consecutively for a period of two years, he shall be liable to pay a fine of twenty rupees in addition to the arrears aforesaid.

11. *Enrolment of Advocates in Supreme Court.*—(1) No person shall be entitled as of right to practise in the Supreme Court unless his name is entered in the roll of advocates of Supreme Court maintained under this Act.

(2) The Supreme Court shall prepare and maintain a roll of advocates which shall be in two parts, one containing the names of senior advocates, and the other containing the names of other advocates.

(3) In the first part shall be entered as the name of—

(a) all persons who are entitled to practise as senior advocates on the date on which this section comes into force in respect thereof :

Provided that such persons have paid a fee of fifty rupees to the All-India Bar Council ;

(b) all persons who have been enrolled for not less than ten years as advocates in the High Court of a State :

Provided that they have paid a fee of two hundred rupees to the Court and a fee of four hundred rupees to the All India Bar Council.

(4) In the second part shall be entered the names of--

- (a) all persons who are entitled to practise as an advocate on the date on which this section comes into force in respect thereof :

Provided that such persons shall have paid a fee of thirty rupees to the All India Bar Council ;

- (b) all persons who have been enrolled for not less than five years as an advocate to the High Court of a State :

Provided that such persons shall have paid a fee of one hundred rupees to the Supreme Court and a fee of two hundred rupees to the All India Bar Council.

(5) All Advocates enrolled in the Supreme Court shall have to pay a fee of ten rupees per annum to the All India Bar Council.

(6) A person who in the case of an appeal before the Supreme Court has appeared as a Council Advocate or Vakil in that case in the court from which the appeal is brought shall be entitled to appear and plead in the appeal, notwithstanding that he has not been enrolled as an advocate of the court provided that an advocate of the Supreme Court is briefed with him.

(7) The Chief Justice of India may, if for any reason he thinks it desirable so to do, permit any other person who in his opinion is sufficiently qualified to appear as an advocate in a particular case.

(8) A senior advocate shall not appear or plead without a junior.

(9) No person shall appear as an advocate in any case, unless he is instructed by an agent.

(10) A senior advocate shall not accept instructions to draw pleadings, affidavits, advice on evidence or to do any drafting work of an analogous kind, but this prohibition shall not extend to settling any such matters as aforesaid in consultation with a junior.

(11) An enrolled advocate may, if otherwise qualified, apply to be enrolled in the list of senior advocates and any fees payable by him on enrolment shall be reduced by the amount of the fee paid by him on his original enrolment.

(12) A junior appearing with a senior advocate or with any other advocate senior to himself shall be entitled to, and shall be paid, a fee not less than one-third of the fee marked on the brief of the senior, but this rule shall not apply in the case of a second junior.

Explanation.—For purposes of clause (b) of sub-section (3) and clause (b) of sub-section (4), the period during which a person was entitled as of right to practise as a vakil or pleader in the High Court of a State immediately before his enrolment as an advocate in that High Court may be taken into account for the purpose of calculating the above-mentioned periods of ten or five years as the case may be.

(13) The annual fees of ten rupees shall be payable to the All-India Bar Council in advance during the course of enrolment and practice, and in case an Advocate fails to pay it consecutively for a period of two years, he shall be liable to pay a fine of thirty rupees in addition to the arrears aforesaid.

12. *Precedence in Supreme Court.*—(1) The Attorney-General shall have precedence over all other advocates in that Court.

(2) The Advocates-General of West Bengal, Madras, Bombay, Uttar Pradesh, Punjab, Madhya Bharat, Berar, Assam, Orissa and Rajasthan shall in that order have precedence immediately after the Attorney-General.

(3) An Advocate-General shall by virtue of his office have the status and precedence of a senior advocate in the Supreme Court notwithstanding that his name is not in the list of senior advocates.

(4) A senior advocate shall have precedence over other advocates.

(5) Subject to the preceding provisions, an advocate appearing before the Supreme Court shall have precedence among senior or other advocates, as the case may be, according to the date of his enrolment as a senior or other advocate, as the case may be, in the Supreme Court :

Provided that an advocate enrolled before the thirty-first day of December, 1938, shall have precedence among the senior or other advocates as the case may be, according to the date of enrolment in his own High Court ; any question which arises with respect to the precedence of any advocate shall be determined by the Supreme Court.

13. *Qualifications and admission of advocates.*—(1) The Bar Council may make rules to regulate the admission of persons to be advocates of the High Court :

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

- (a) the qualifications to be possessed by persons applying for admission as advocates ;
- (b) the form and manner in which applications shall be made to the High Court for admission ;
- (c) the giving of notice by the High Court to the Bar Council of all such applications ;
- (d) the hearing of the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ; and
- (e) the charging of fees payable to the Bar Council in respect of the enrolment.

(3) Rules for the purpose mentioned in sub-sections (1) and (2) for admission to practise in the Supreme Court shall be made by the All India Bar Council.

(4) Rules made under this section shall provide that no woman shall be disqualified for admission to be advocate by reason only of her sex.

MISCONDUCT.

14. *Professional Misconduct.*—An advocate shall be guilty of professional misconduct—

- (a) if he takes instruction in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorised by the party to give such instructions ; or

- (b) if he is guilty of fraudulent or grossly improper conduct in the discharge of professional duty; or
- (c) if he tenders, gives, or consents to the retention out of any fees paid or payable to him for his services of any gratification for procuring or having procured the employment in any legal business of himself or any other advocate; or
- (d) if he directly or indirectly, procures or attempts to procure the employment of himself as such advocate through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed to or promised to be so given; or
- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout; or
- (f) if he is guilty of any other act grossly derogatory to the profession.

15. *Punishment of Advocate for Misconduct.*—(1) The Bar Council may, in the manner hereinafter provided reprimand, suspend or remove from practice any advocate whom it finds guilty of professional or any other misconduct which in its opinion renders him unfit to be an advocate.

(2) Upon receipt of a complaint made to it by the High Court or by any Court or by any other persons that such advocate has been guilty of misconduct, the Bar Council shall, unless it considers unnecessary to do so, refer the case for enquiry, either to the Court of the District Judge (hereinafter referred to as District Court) or to a district committee of the Bar Council or to a sub-committee of its own members, constituted for the purpose, to make a preliminary enquiry and make a report about it to the Bar Council.

(3) The finding of the District Court or a district committee of the Bar Council or of the sub-committee of the Bar Council as the case may be, shall be sent to the Bar Council.

(4) If on the receipt of the report under sub-section (3) or even if without such reference and report the Bar Council is of opinion that the case should be tried, it shall be enquired into by a committee of the Bar Council (hereinafter referred to as the Tribunal).

(5) The Tribunal shall consist of not less than three and not more than five members of the Bar Council, appointed for the purpose of the inquiry by the Chairman of the Bar Council and one of the members so appointed shall be appointed to be the President of the Tribunal.

(6) After the appointment of the Tribunal, the complaint and the report of the inquiry, if any, shall be sent to the Tribunal. The Tribunal on receipt of such inquiry or report shall fix a day for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned, to the Registrar of the High Court and to the complainant, if any, and shall afford the advocate concerned and the complainant, of any, an opportunity of being heard and of producing such material before it as they desire.

— Provided that the Tribunal shall not be bound by any rules of evidence.

(7) In case of a private complaint the Tribunal may if it considers, necessary, call upon the complainant to furnish such security for costs as it deems fit.

(8) On the termination of the inquiry the Tribunal shall pass orders in the case. In passing its orders the Tribunal may pass such orders as regards the payment of costs of the inquiry and of the hearing before it as it thinks fit.

16. *Appeal*.—(1) From the orders of the Tribunal an appeal shall lie to the All India Bar Council.

(2) The period of limitation for the appeal shall be thirty days.

(3) On receipt of an appeal the All-India Bar Council shall constitute a sub-committee of its own members consisting of not less than three and not more than five members, and shall nominate one of the members as the President (hereinafter referred to as Appellate Tribunal).

(4) The Appellate Tribunal after giving notice to the Secretary of the Bar Council and the advocate concerned and the complainant, if any, shall fix a date hearing of the appeal.

(5) At the time of the hearing of the appeal, the Secretary of the Bar Council concerned or any other person appointed by the Bar Council for this purpose and the complainant, if any, and the advocate concerned, shall have the right of appearing before the committee.

(6) Appellate Tribunal after hearing the appeal will pass order in the case and the opinion of the majority of members shall prevail.

17. *Execution of the order*.—(1) The order of the Tribunal, in case no appeal is filed, or the order passed by the Tribunal is confirmed by the Appellate Tribunal, or the order of the Appellate Tribunal in case it varies with the order of the Tribunal shall be final.

(2) A copy of the orders of a Tribunal or of the Appellate Tribunal as the case may be, shall thereafter be submitted to the High Court, when any advocate reprimanded or suspended by such orders a record of the punishment shall be entered against his name in the roll of advocates of the High Court and when an advocate is removed from practice his name shall forthwith be struck off the roll and the certificate of the advocate so suspended or removed shall be recalled.

(3) The Bar Council shall make rules to prescribe the procedure to be followed by the District Bar Council Committees, sub-committee of the Bar Council and the Tribunal in the conduct of the inquiries referred under this section and the All India Bar Council for the procedure to be adopted by the Appellate Tribunal appointed for hearing the appeal.

18. *Powers of the All-India Bar Council in case of misconduct*.—All-India Bar Council shall have the same powers and adopt the same procedure in respect of complaints of misconduct in respect of advocates practising before the Supreme Court as are exercisable by the Bar Councils in respect of advocates practising in the High Courts under section 13 of the Act, but the State Bar Council shall not be debarred from taking proceedings for misconduct by an advocate enrolled in Supreme Court committed within its jurisdiction.

19. *Finality of orders of the Tribunal of All-India Bar Council*.—(1) The orders of a Tribunal of the All India Bar Council passed under section 18 of this Act shall be final.

(2) A copy of the orders of the Tribunal of the All-India Bar Council shall be submitted to the Supreme Court. When any advocate is reprimanded or suspended by the Tribunal of the All India Bar Council a record of the punishment shall be entered against his name in the rolls of the advocates of the

Supreme Court, and when an advocate is removed from practice his name shall forthwith be struck off the rolls, and the certificate of the advocate so suspended, shall be recalled.

(3) The All India Bar Council shall make rules to prescribe the procedure to be followed by the Appellate Tribunal constituted by it, and the Tribunal of the All India Bar Council constituted by it to inquire into and try the cases of professional misconduct of advocates of the Supreme Court.

20. *Powers of the Tribunal and Courts of inquiry.*—(1) For the purposes of any such inquiry the Appellate Tribunal, the Tribunal of All India Bar Council, a Tribunal, a sub-committee, or District Committee of the Bar Council or a District Court shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters namely :—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents, and
- (c) issuing Commission for the examination of witnesses :

Provided that the Appellate Tribunal, the Tribunal of the All-India Bar Council, a Tribunal, Sub-Committee or District Committee of the Bar Council shall not have power to require the attendance of the Presiding officer of any Court save with the permission of the High Court, or in the case of an officer of Criminal or Revenue Court, or the State Government.

(2) Every such inquiry shall be deemed to be a Judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal, the Tribunal of the All-India Bar Council, a Tribunal, a sub-committee or a District Committee of the Bar Council shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898.

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(a) the local limits of the Appellate Tribunal, or of the Tribunal of the All India Bar Council shall be those of the jurisdiction of the Supreme Court ;

(b) the local limits of Tribunal or Sub-committee of the Bar Council shall be those of the jurisdiction of the High Court for which the Bar Council is constituted and that of the District Committee of the Bar Council shall be the District for which it is appointed ; and

(c) the Appellate Tribunal, the Tribunal of the All India Bar Council or a Tribunal, a Sub-Committee or District Committee of the Bar Council, making an inquiry may send to any Civil Court having jurisdiction in the place where the Appellate Tribunal, the Tribunal of the All India Bar Council, or a Tribunal, a Sub-Committee or District Committee of the Bar Council making an inquiry is sitting any summons or any other process for the attendance of a witness or for the production of a document required by any of them or any commission which any of them desires to issue and the Civil Court shall serve such process as if it were a process for attendance or production before itself.

(4) Proceedings before the Appellate Tribunal, the Tribunal of the All-India Bar Council or a Tribunal, a Sub-Committee or District Committee of Bar Council making an inquiry or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872, the provisions of the section shall apply accordingly.

21. *Right of Advocates to practise.*—(1) An Advocate of the Supreme Court shall be entitled as of right to practise in any High Court whether or not he is enrolled as an advocate of that High Court, and in all other Courts and before Tribunals or persons legally authorised to take evidence.

(2) Any other advocate shall be entitled as of right to practise—

(a) in the High Court of which he is an advocate ;

(b) save as otherwise provided by sub-section (3) or by or under any other law for the time being in force in any Court in India and before any other Tribunal or person legally authorised to take evidence and,

(c) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise.

(3) Where rules have been made by any High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, or in the case of any High Court for which a Bar Council has been constituted under this Act by such Bar Council under section 20, regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Courts such advocates shall not be entitled to practise therein otherwise than subject to those conditions.

22. *Power to frame and publish list of touts.*—(1) The Bar Council may of its own motion or on a resolution passed by a Bar Association inquire into the conduct of any person after giving him an opportunity of showing cause as to why his name should not be included in the list of persons who may be proved by evidence of general repute habitually to act as touts.

Explanation.—The passing of a resolution declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an Association of persons entitled to practise as legal practitioners in any Court, shall be evidence of general repute of such persons for the purposes of this section.

(2) Every person whose name is included in list shall be deemed to be proclaimed as a tout, within the meaning of section 36 of Legal Practitioners' Act.

(3) The Bar Council may maintain a list of touts framed by the Court under section 36 of the Legal Practitioners' Act and may alter, add to or amend such list. The Bar Council shall communicate to Courts the names of persons who are declared as touts under sub-section (1).

(4) Any person who acts as a tout whilst his name is included in the list shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or both.

23. *General power of Bar Councils to make rules.*—A Bar Council may make rules consistent with this Act to provide for and regulate any of the following matters, namely:—

- (a) the rights and duties of the advocates of the High Court and their discipline and professional conduct;
- (b) the enrolment of advocates and removal of their names from the roll of advocates permanently or for a limited period;
- (c) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court;
- (d) the making of provisions of giving facilities for legal education and training and the holding and conduct of examination by the Bar Council;
- (e) the establishment and maintenance of Law Schools;
- (f) prescribing of the fees payable to the Bar Council in respect of the enjoyment of educational facilities provided or of the right to appear at examinations, held by the Bar Council;
- (g) the management and investment of funds of the Bar Council;
- (h) travelling allowances to be given to the members of the Bar Council and to the members of the All-India Bar Council returned by that Bar Council;
- (i) inquiries into the cases of persons alleged to be touts, and declaration of touts;
- (j) any other matter incidental or ancillary to any of the foregoing matters.

24. *General power of All India Bar Council to make rules.*—The All India Bar Council may make rules consistent with this Act to provide for and regulate any of the following matters, namely:—

- (a) the rights and duties of the advocates of the Supreme Court and their discipline and professional conduct;
- (b) the enrolment of advocates practising in the Supreme Court and the removal of their names from the roll of advocates, permanently or for a limited period;
- (c) co-ordinating the activities of the various Bar Councils in giving facilities for legal education and the holding and conducting of examinations by those bodies;
- (d) prescribing of fees payable to the All-India Bar Council in respect of enrolment;
- (e) the investment and management of the fund of All India Bar Council;
- (f) any other matter incidental or ancillary to any of the foregoing matters.

25. *Power to fix fees payable as costs.*—(1) The Supreme Court shall make rules for framing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate and agent upon all proceedings in the Supreme Court.

(2) The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or any Court subordinate thereto.

26. *Indemnity against legal proceedings.*—No suit or other legal proceedings shall lie against the All-India Bar Council or a Bar Council, or any Subcommittee or District Committee of Bar Council Tribunal, or Appellate Tribunal or member of All India Bar Council or a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

27. *Publication of rules.*—(1) All rules made under this Act by the All India Bar Council shall be published in the official *Gazette of India*.

(2) All rules made under this Act by a Bar Council shall be published in the official Gazette of the State, or of each State, as the case may be, in which the High Court to which the Bar Council is attached, exercises jurisdiction.

28. *Repeal, amendment of enactments etc.*—(1) All Bar Councils constituted under the Indian Bar Councils Act, Act No. XXXVIII of 1926, or under any of the State Amendments to that Act, shall be deemed to have been constituted under this Act when this comes into force.

(2) When sections 10 to 25 come into force in respect of any High Court any enactment mentioned in the first column of the schedule to this Act which is in force in any State in which the High Court exercises jurisdiction shall, for the purposes of its application to that State be repealed, amended, to the extent and in the manner specified in the second column of this schedule.

(3) When sections 10 to 25 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in such Letters Patent, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(4) When sections 10 to 25 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders Act, 1920, except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an Advocate of the High Court under this Act and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court.

(5) When this Act has come into force in respect of any High Court any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall unless such a construction is repugnant to the context or to any provision made by or under this Act, be constructed as applying to advocates of the High Court enrolled under this Act.

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THE SCHEDULE.

(See section 28).

REPEAL AND AMENDMENT OF ENACTMENTS.

Enactment repealed or amended	Extent of Repeal or Amendment
1. The India Bar Council Act, Act XXXVIII of 1926.	Whole repealed.
2. The U. P. Act, XXIV of 1950	Whole repealed.
3. The Legal Practitioners' Act of 1879.	(1) In section 4, section 6, clauses (a) and (b), section 38, section 41 and sub-section (1) for the words and figures, 'the India Bar Council Act, 1926' substitute the words 'the All India Bar Councils Act of 1951'.
4. The Indian Stamp Act, 1899	In item 30 of the 1st Schedule (a) for the words 'under the India Bar Council Act, 1926' substitute the words, 'under the All-India Bar Councils Act, 1951 when the enrolment fee is paid in a lump sum'; (b) for the words, 'Five hundred rupees' substitute the words, 'One hundred rupees'; (c) to the entry under 'Exemption' the following be added, at the end 'or the entry of an Advocate who undertakes to pay annual fee to the Bar Council'.
5. The Madras Stamp (Amendment) Act 1922.	(a) In item 25 of schedule I-A for the words and figures, 'under the Indian Bar Council Act, 1926', substitute the words and figures: 'under the Indian Bar Councils Act, 1951 when the enrolment fee is paid in a lump sum'; (b) for the words 'six hundred rupees' substitute the words, 'one hundred rupees'; (c) for the words, 'three hundred and twelve rupees, eight annas', substitute the words, 'sixty two rupees and eight annas';

Enactment repealed or amended	Extent of Repeal or Amendment
	(d) to the entry under 'Exemption' the following be added at the end, namely:—'or the entry of an Advocate who undertakes to pay an annual fee to the Bar Council'.
6. The Bengal Stamp Amendment Act, 1935.	Similar Amendments in Art. 30, substitute 'Rs. 750/-' by 'Rs. 100/-'.
7. The Punjab Amendment Act, 1922.	In Art. 30 of Schedule 1A, after the words, 'High Court' where they occur, the words and figures 'under the Indian Bar Council Act, 1951 when the enrolment fee is paid in a lumpsum' shall be inserted. Similar amendment substituting Rs. 750/-' by 'Rs. 100/-'.
8. The Assam Stamp Amendment Act, 1922.	Similar Amendments.

STATEMENT OF OBJECTS AND REASONS.

It is undoubtedly truism that an independent Bar is as much a necessity for a civilized society as an independent judiciary. With the advent of independence of India a thorough overhaul of this profession has also become necessary. An independent and autonomous Bar alone can raise the standard of education, honesty, independence and morality of the profession.

The Indian Bar Councils Act (Act XXXVIII of 1926) was enacted with this view. But it suffered, amongst others, from the handicap that at that time the Highest Court of Justice was not located in India and for that reason a Central body co-ordinating the activities of the advocates in the various States could not be easily created. The establishment of the Supreme Court of India has given us an opportunity to remove that defect and now the conception of an All-India Bar can be given a practical shape. It is with this view that the present Bill is being introduced.

The working of the Indian Bar Councils Act for the last twenty years has brought to the fore some of its inherent defects. One of these defects is the system of election to the Bar Council. In that Act the whole of the State was kept as an electoral college for elections to the Bar Council. The result was that the electors could not vote on their own knowledge. They had to depend on the recommendation of others. Anyone who took to canvassing and arriying on propaganda had got better chances of success than the one who, though otherwise much better fitted to be a member of the Bar Council, yet had neither the inclination nor the time for such methods of canvassing. So one of the important changes introduced in this Bill is the creation of smaller electoral colleges for election to the Bar Council which it is hoped would lead to the election of really competent persons from throughout the State to take part in the deliberations of that body.

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In addition to the Bar Council attached to the various High Courts an All India Bar Council is proposed in this Bill which is to be a central body and it is expected that it will do the work of co-ordinating the activities of the various Bar Councils of the State. The election to the All-India Bar Council has been kept indirect, *i.e.*, its members are to be elected mostly by the members of the Bar Councils. The matter of legal education, training and discipline is kept in the hands of the Bar Councils and in cases of inquiries regarding professional misconduct of the advocates, the All India Bar Council has been kept as a Court of Appeal.

The various changes intended to be effected in the Bar Councils Act of 1926 could not be easily effected by an amending Bill, hence this Bill is introduced to replace the Indian Bar Councils Act.

MOHAMMAD AHMAD KAZMI.

NOTE ON CLAUSES.

Clauses 4 and 6.—As has been stated in the statement of objects and reasons to provide for smaller electoral colleges, the States have been divided into various electoral constituencies. Judges of the High Court and the Supreme Court who are raised to the Bench from amongst the advocates are expected to show keen interest in the organisation and efficiency of this profession, as such they have been given an effective representation in the Bar Council. It is possible that some persons who can take serious interest in the matters of the profession may not come in the Bar Council by election; provision has, therefore been made for their nomination by the High Court or the Supreme Court as the case may be.

Clauses 5 and 7.—The present period of the members of the Bar Council is too short for any constructive work and working out a planned scheme for the improvement of the profession. To remove this defect a longer period has been provided, but to avoid any stagnation and diminution of interest amongst the advocates, so far as the matters of the Bar Council are concerned, the election of one-third of the members after a period of three years has been provided by this clause.

Clauses 10 and 11.—It has been the keen desire in the profession to remove the distinction between the various classes of legal practitioners. This was the aim of the Indian Bar Councils Act of 1926, but the conditions of enrolment have again effected a great division and created two distinct classes in the profession consisting of persons having the same or almost the same qualifications.

It has, therefore, been provided that the advocates may be enrolled by paying a lumpsum, or by paying an annual fee with the option of paying up the lumpsum at any time later on. This would bring a very large number of legal practitioners under the control of the Bar Council. The only class that would be left out would be *mukhtars*, but as most of the State Governments have stopped recruitment to this class, it is expected that the Bar Council would become the sole representative body of the Legal practitioners in India.

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From the point of view of finances also it will add great deal to the strength of the funds of the Bar Council. At present the sole source of income of the Bar Council is from the annual enrolment of the advocates—a very uncertain source of income. Annual payment of fees can be a more reliable source of income. Further, a fee of Rs. 5 per annum payable by the Advocates to the Bar Council and a fee of Rs. 10 payable to the All India Bar Council has been provided from this point of view. It is expected that with financial stability the Bar Council would be in a position to take up the work of legal education in its hands.

In this connection it may further be mentioned that the share of the Bar Council in the enrolment fee is very insignificant, while that given to the State is very large; now that the main work of discipline is being transferred to the Bar Council it is only proper that the share of the Bar Council in the enrolment fee should be increased. For this purpose necessary amendments have been made in article 30 of the Stamp Act.

Clause 14.—A definition of misconduct has been added by this section.

Clauses 15 and 16.—The trial of cases for misconduct has been brought under the exclusive control of the Bar Council and an appeal has been provided to the All India Bar Council.

Clause 21.—By the establishment of the Supreme Court we have got a further opportunity of unifying the Bar of India. It has, therefore, been provided that the advocates enrolled in the Supreme Court shall have a right of practising in any High Court in India. This provision is not likely to affect the financial position of any Bar Council in India, as for an enrolment of an advocate in the Supreme Court, the condition precedent is that he should be enrolled as an advocate in the High Court of a State.

Clause 22.—At present the Bar Council has got no power to declare a person as a tout. Experience has shown that the High Court with its multifarious duties cannot easily act in this direction. It is, therefore, proposed that the Bar Council should have concurrent jurisdiction in the matter of declaration of persons as touts.

Clause 23.—In this clause the powers of the Bar Council in making provision for legal education has been more specifically brought to the force.

Further as it is apprehended that the funds of the All-India Bar Council may not be sufficient to meet the travelling allowances of members coming from the States it has, therefore, been provided that their travelling allowances may be paid by the Bar Councils of the High Court—each High Court Bar Council paying the expenses of those members of the All-India Bar Council who have been returned by it to the All-India Bar Council.

Clause 24.—In the matter of legal education the function of the All-India Bar Council shall be that of co-ordinating the activities of the various Bar Councils, and with that object item (c) has been added to this clause.

A Bill to provide for the better governance and administration of Muslim Wakfs and the supervision of Mutawallis' management of them, in India.

Be it enacted by Parliament as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act shall be called the Muslim Wakfs Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) This section and sections 2 to 4 shall come into force at once. The rest of the Act shall not come into force until such date as the Government may, by notification in the Official Gazette, appoint in this behalf.

2. *Application of the Act.*—This Act shall apply to all wakfs whether created before or after the commencement of this Act, except those mentioned in the Schedule :

Provided that the State Government shall have the power to add to or take away any wakf mentioned in the Schedule which is situated within that State.

3. *Definitions.*—In this Act unless there is anything repugnant in the subject or context,—

(a) 'Alim' means a person who is a diploma holder of a 'madarsa Arabia' as defined in clause (7) of this section ;

(b) 'beneficiary' means a person or object for whose benefit a wakf is created and includes religious, pious and charitable objects, and any other objects of public utility established for the benefit of the Muslim community ;

(c) 'benefit' does not include any benefit which a mutawalli is entitled to claim solely by reason of his being such mutawalli ;

(d) 'Board' means Board of Muslim Wakfs constituted under this Act ;

(e) 'court' means unless otherwise stated either expressly or by implication, the court of the District Judge, or any court empowered by the Government to exercise jurisdiction under this Act ;

(f) 'family' includes :—

(a) descendants,

(b) parents and grand parents,

(c) wife or husband, and

(d) persons related through any ancestor male or female, who live with and are maintained by the wakf.

(g) 'Jamait-Ulema' means Jamait-Ulamai-Hind which has got its head-office at Delhi and includes all its branches in the various States of India ;

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(h) 'madarsa Arabia' includes any educational institution wherein,—

(i) the Nizami Course or Shia Theological Course or Oriental Course of studies is prescribed for grant of degrees :

Provided that a madarsa in which Shia Theological Course is prescribed shall be called 'Shia madarsa Arabia' and all the rest shall be called 'Sunni madarsa Arabia',

(ii) there are at least two teachers to teach Arabic, and

(iii) the annual budget, at least for the previous two years has amounted to a sum of five thousand rupees ;

(i) 'mutawalli' means a manager of a wakf or endowment and includes, an *Amin*, a *Sajjadanishin*, a *Mujawar*, a *Khadim*, a *Naib-Mutawalli*, a committee of management and save, as otherwise provided in this Act any person who is for the time being in-charge of, or is administering, any endowment as such ;

(j) 'net income' means the total income minus land revenue and other cesses payable to the Government and local bodies ;

(k) 'person interested in wakf' means any person who is entitled to receive any pecuniary or other benefit from the wakf and includes,—

(i) any person who has a right to worship or to perform any religious rite in a mosque, *idgah*, *imambara*, *dargah*, *khangah*, *magbara*, graveyard or any other religious institution connected with the wakf or to participate in any religious or charitable institution under the wakf ;

(ii) the 'wakif' and any descendant of the wakif, and the mutawalli ;

(l) 'prescribed' means prescribed by rules made by the Government and includes bye-laws made by the Board under this Act ;

(m) 'property' includes Government security bonds, shares in firms, and companies, stocks, debentures, and other securities and instruments ;

(n) 'Shia Conference' means All-India Shia Conference which has its head office at Lucknow and includes all its branches in the various States of India ;

(o) 'Shia Political Conference' means All-India Shia Political Conference and includes all its branches in the various States of India.

CHAPTER II.

SURVEY OF WAKFS AND BOARDS OF WAKFS.

4. *Survey of wakfs*.—(1) Within three months of the commencement of this Act the Government shall by notification in the Official Gazette appoint a Gazetted Officer, either by name or by official designation, for the purpose of making a survey of all wakfs. Such officer shall be called "The Commissioner of Wakfs".

(2) The Government may, from time to time when necessary, cancel any appointment made under sub-section (1) or make a new appointment.

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(3) "The Commissioner of Wakfs" shall, after making such enquiries as he may consider necessary, ascertain and determine,—

(a) the number of all Muslim wakfs showing Shia or Sunni wakfs respectively :

Provided that when there is a dispute whether a particular wakf is a Shia wakf or a Sunni wakf and there are clear indications as to the sect to which it pertains in the deed of wakf, such dispute shall be decided on this basis ;

(b) the nature of each wakf,

(c) the gross income of property comprised in the wakf,

(d) the amount of Government Land Revenue cesses and taxes payable in respect of wakf property,

(e) expenses incurred in the realization of the income and the pay of the Mutawalli of each wakf.

(4) In making such enquiries as aforesaid the Commissioner of Wakfs shall exercise all the powers of a civil court for summoning and examining witnesses and documents making local inspections, appointing commissioners for examination of witnesses, examining of accounts and making local investigations.

(5) The Commissioner of Wakfs shall submit his report of enquiry to the Government.

(6) The total cost of carrying out the provisions of this section shall be borne by the Mutawallis of all wakfs in proportion to the income of the property of such wakfs situated in India.

(7) Notwithstanding anything contained in the deed or instrument of creating any wakf any Mutawalli, may pay from the income of the wakf any sum due from him under sub-section (6).

(8) Any sum due from a Mutawalli under sub-section (6) may, on a certificate issued by the Government be recovered in the manner provided by law for recovery of an arrear of Land Revenue.

5. *Appointment of Additional Commissioners of wakfs.*—(1) In addition to the Commissioner of wakfs, appointed under section 4, the Government may, by notification in the Official Gazette appoint as many "Additional Commissioners of Wakfs" in each State as it may think necessary. The duties and powers of the Additional Commissioners of Wakfs shall be the same as those of the Commissioners of Wakfs under section 4.

(2) One of such Additional Commissioners of Wakf shall be appointed the "Chief State Commissioner of Wakfs" for the purpose of sub-section (3).

(3) The Chief State Commissioner of Wakfs shall apportion the work of survey between the Additional Commissioners of Wakfs in such manner as he may think proper, and shall direct by whom any enquiry made or report should be submitted and such an enquiry made or a report submitted by an Additional Commissioner of Wakf shall, for the purposes of this Act, be deemed to be the inquiry or report, as the case may be of the Commissioner of Wakfs, under sub-section (5) of section 4 :

Provided that nothing in sections 4 and 5 shall apply to any such State in which the survey of wakfs has taken place before the commencement of this Act.

6. *Commissioner's report.*—(1) The Government shall forward a copy of the report of the Commissioner of Wakfs to the Board. The Board shall as soon as possible notify in the Official Gazette the wakfs, to which, according to such reports the provisions of this Act apply.

(2) The Mutawalli of a Wakf or any person interested in a wakf or the Board may bring a suit in a Civil Court of competent jurisdiction for a declaration that any transaction held by the Commissioner of Wakfs to be a wakf, is not a wakf, or any transaction held or assumed by him not to be a wakf, is a wakf or that wakf held by him to pertain to a particular sect does not belong to that sect:

Provided that no such suit shall be instituted by the Board after more than two years of the receipt of the report of the Commissioner of Wakfs and by a Mutawalli or person interested in a wakf after more than two years after notification referred to in sub-section (1):

Provided further that no proceedings under this Act in respect of any wakf shall be stayed or suspended merely by reason of the pendency of any such suit or of any appeal arising out of any such suit.

(3) Subject to the final result of any suit instituted under sub-section (2), the report of the Commissioner of Wakfs shall be final and conclusive.

(4) The Commissioner of Wakfs shall not be made a defendant to any suit under sub-section (2) and no suit shall be instituted against him for anything done by him in good faith in due discharge of his duties under the Act.

7. *Establishment of Board.*—(1) There shall be established in each State a 'Board of Muslim Wakfs'.

(2) Each such Board shall be a body corporate, and shall have perpetual succession and a common seal, with power to acquire and hold property and to transfer any such property subject to the conditions and restrictions prescribed and shall by its said name, sue and be sued.

8. *Constitution of the Board.*—'The Board' shall consist of,—

(a) four members to be elected in the manner prescribed by Muslim members of the respective State Legislatures,

(b) four members to be elected in the manner prescribed by the Muslim members of the district boards of the respective States,

(c) four members to be elected in the manner prescribed by the Jamiat-Ulema and the teachers of the Sunni Madarsas Arabia,

(d) three members to be elected in the manner prescribed, by Shia Political Conference and Shia Conference and the teachers of the Shia Madarsas Arabia,

(e) One Mutawalli to be co-opted by the Sunni members of the Board and one Mutawalli to be co-opted by the Shia members of the Board,

(f) the President to be elected by the members of the Board if he is not one of the above seventeen members:

Provided that no Mutawalli of a Wakf shall be entitled to be elected in any of the categories save as provided in clause (e):

Provided further that where any one of the bodies referred to in sub-clauses (c) and (d) does not exist, the right of election shall be vested in the other body which is existing at that time.

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9. *Election of Members.*—(1) If at any election of the Board no Muslim member is available under clauses (a) and (b) of section 8, the requisite number of such members shall be elected by the bodies referred to in sub-clauses (c) and (d) to the extent of one half each and on their failure to do so within the time fixed by the State Government, the deficiency shall be made up by nomination by the State Government.

(2) If the bodies referred to in clauses (c) and (d) fail to return the requisite number of members within the time as may be fixed by the State Government the deficiency shall be made up by nomination by the State Government.

10. *Disqualification of a member.*—A person shall not be eligible for appointment or election as a member, if such person—

- (a) is not a Muslim;
- (b) is less than twenty years of age;
- (c) is of unsound mind; and stands so declared by a competent court;
- (d) has applied for being adjudged an insolvent or is an undischarged insolvent;
- (e) has been convicted of any offence under this Act;
- (f) has been convicted of any such offence or is subjected by a criminal court to any such order as implies moral turpitude; and
- (g) has on any previous occasion, been removed from office or by order of a competent court from any position of trust either for mismanagement or for corruption.

11. *Term of Membership.*—The members of the Board shall hold office for five years:

Provided that an elected or co-opted member shall, notwithstanding the expiration of his term of office, continue to hold office until the vacancy caused by expiration of the said term has been filled.

12. *Situation of Office.*—The office of the Board shall be located at such a place as is determined by the State Government.

13. *Quorum.*—The quorum for a meeting of the Board shall be seven.

14. *Decision.*—The decision of the Central Board shall be by a majority of its members present and voting. In case of equal division the President shall have a second or a casting vote:

Provided that the question of the use of surplus fund of Sunni or Shia Wakfs or the income of wakfs in accordance with the cypres doctrine and in case of those wakfs the object of which are not evident from any written instruments or in cases in which the objects for which they were created have ceased to exist, shall be determined by the Board, by the votes, of only Sunni or Shia members present at the voting in respect of Sunni or Shia Wakfs respectively.

15. *Meetings of the Board.*—(1) The Board shall meet for the transaction of the business at least once in every three months and as often as is necessary to meet for the transaction of the business.

(2) Every meeting of the Board shall be convened by the Secretary, under the direction of the President and at least three weeks' notice shall be given to the members.

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 16. *Special Meetings of the Board.*—The special meetings of the Board shall be called by the President on the receipt of a requisition signed by not less than six members and specifying the business to be transacted at such meeting :

Provided that if the President fails to call such meeting within one month after the receipt of such a requisition, the meeting shall be called by the members who have signed the requisition.

17. *President and Secretary.*—(1) Each Board shall have a President and a Secretary who shall be Muslims :

Provided that no Mutawalli of a wakf or a Government Treasurer or a whole-time servant of the Government or the servant of any wakf administration, shall be elected as the President.

(2) Immediately after the formation of the Board and subsequently whenever it becomes necessary by reason of an existing or anticipated vacancy or otherwise to appoint a President, the Board shall elect one of its members or any other person as its President. The President shall be honorary and shall hold office for a term of five years, but if he is a member of the Board his term shall expire on the expiry of his term as a member.

(3) The Board shall appoint a Government Gazetted Officer as its whole-time Secretary on such terms or allowances and other conditions of service as may be prescribed :

Provided that if a Government Gazetted Officer is not available the Board may appoint another person.

18. *Staff of Board.*—(1) The Board may appoint such officers and staff including superintendents of wakfs, inspectors, auditors, and the like, on such salaries, allowances and conditions of service as may be necessary for the purpose of this Act and for such a period as it may think fit.

(2) The President, Secretary and all other persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860.

(3) The Board may fine, suspend, dismiss or remove a Secretary who is not a Government Gazetted Officer, or any other person appointed by it under sub-section (1) :

Provided that the Secretary who is a Government Gazetted Officer, shall be liable to removal by the State Government on the recommendation of the Board.

19. *Functions of the Board.*—(1) The General Superintendence of all wakfs to which this Act applies shall vest in the Board. The Central Board shall do all things reasonable and necessary to ensure that wakfs or endowments under its superintendence are properly maintained, controlled and administered and duly appropriated to the purposes for which they were founded or for which they exist.

(2) Without prejudice to the generality of the provisions of sub-section (1) the powers and duties of the Board shall be,—

(a) to complete and maintain an authentic record of rights containing information relating to the origin, income, object and beneficiaries of every wakf in each district,

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(b) to prepare and settle its own budget,

(c) to settle and pass budget submitted by the Mutawallis, to the Board:

Provided it is in consonance with the wishes of the wakif and is in accordance with the terms of the deed of wakf, or that of a resolution of the Board, if any,

(d) to appoint and remove Mutawallis according to the provisions of this Act,

(e) to institute and defend suits and proceedings in a court of law relating to,—

(i) administration of wakfs,

(ii) taking of accounts,

(iii) appointment and removal of Mutawallis in accordance with the deed of wakf,

(iv) putting the Mutawallis in possession of a wakf or removing him from that possession,

(v) settlement or modifications of any scheme or management,

(f) to sanction the institution of suits under section 92 of the Code of Civil Procedure, 1908, relating to wakfs, to which this Act applies,

(g) to take measures for the recovery of lost properties of any wakf,

(h) to settle schemes of management for a wakf or application of surplus fund of a wakf or income of wakf properties of a wakf in accordance with the cypres doctrine in case of those wakfs, the objects of which are not evident from any written instrument or in cases in which the object for which they were created have ceased to exist,

(i) to enter upon and inspect wakf property,

(j) to cause inspection to be made of the property and the office of a wakf including accounts, and to authorise, the Secretary, or any of its members, officers, or servants for that purpose,

(k) to investigate into the nature and extent of wakfs and properties of the wakf and call from time to time accounts and other returns and information from the Mutawallis and give directions for the proper administration of wakfs,

(l) to arrange for the auditing of accounts submitted by Mutawallis,

(m) to direct, the deposit of surplus money in the hands of a Mutawalli in any approved bank or to utilize it according to the resolution of the Board,

(n) to administer the Wakf Fund,

(o) to keep regular account of receipts and disbursements and submit the same, in the manner prescribed,

(p) to institute when necessary an enquiry relating to the administration of the wakf:

Provided that in the appointment of Mutawallis or making any other arrangement for the management of wakf property, the Board shall be guided as far as possible by the directions of wakf, if any,

(q) to sanction leases of properties for more than three years or mortgage or exchange properties according to the provisions of the Muslim Law :

Provided that at least three-fourths of the members of the Board vote in favour of such a transaction,

(r) to furnish to the State Government or to any such officer as the State Government may appoint in this behalf, any statement, report, return or other documents or any other information which the State Government or any such officer, as the case may be, may require from time to time,

(s) to direct the Mutawalli to institute and defend suits in courts of law, and take necessary action in respect of wakf property :

Provided that in case of failure of Mutawalli to do so, or in case when there is no Mutawalli or when the office of Mutawalli is disputed, the Board shall do all these things itself and shall incur the necessary expenses from the wakf fund ;

(t) to realise, in the prescribed manner, and subject to prescribed conditions, out of the income of any wakf, the costs incurred by the Board in any of the matters mentioned in clause (s), in respect of such wakf,

(u) to permit a Mutawalli to retire from his office and in case the Mutawalli has power to appoint his successor, to permit him to make appointment in his life time.

20. *Delegation of Powers.*—The Board may delegate any of its power and duties under this Act to the President or Secretary or to any one or more of its members and may likewise withdraw such delegation.

21. *Establishment of Committees.*—The Board whenever it considers necessary, may establish either generally for a particular purpose or in any specific area or areas committees for the supervision of wakfs in that area. The constitution, functions and duties of such committees shall be determined from time to time by the Board :

Provided that it shall not be necessary for the members of such committees that they should be members of the Board also.

22. *Removal of a member.*—The Board may, by notification in the Official Gazette, remove any member from the Board if he—

(a) refuses to act or becomes incapable of acting as a member of the Board, or

(b) becomes subject to any disqualification mentioned in section 10, or,

(c) without excuse, sufficient in the opinion of the Board, is absent without the consent of the Board, for more than six consecutive meetings of the Board.

23. *Resignation of a member.*—A member of the Board may resign his office by giving notice in writing to the President and on such resignation being accepted by the Board, shall be deemed to have vacated his office.

24. *Filling of a vacancy.*—When a seat of a member becomes vacant by his removal, resignation or death, a new member shall be elected or co-opted

as the case may be, in the manner provided in section 8 and shall hold office as long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred :

Provided that no act or order of the Board or its officer shall be deemed invalid by reason only that the member or members of the Board at the time of the performance of such an act or at the passing of such an order was less than the number provided in section 7.

25. *Removal of President.*—The State Government may remove the President if the President,—

(a) is or becomes subject to any disqualification specified in section 10,

(b) refuses to act or becomes incapable of acting, or acts in a manner which the State Government after hearing any explanation that he may offer, consider to be prejudicial to the interest of wakfs, or

(c) if he fails without excuse to attend three consecutive meetings of the Board.

26. *Opinion of the Board.*—The mutawalli of any wakf governed by this Act may apply by petition to the Board for its opinion, advice or direction on any question affecting the management or administration of the property of such wakf and the Board shall give such opinion, advice or direction :

Provided that the Board shall not be bound to give such opinion, advice or direction on any question which is not in its opinion a fit question for summary disposal.

27. *Inspection and copies of Records.*—The Board may grant inspection and copies of its proceedings or other records in its custody on payment of such fees and subject to such conditions as may be prescribed by rules. All copies issued under this section shall be certified by the Secretary of the Board in the manner provided in section 76 of the Indian Evidence Act, 1872.

CHAPTER III

REGISTRATION OF WAKFS

28. *Registration.*—(1) Every wakf whether created before or after the commencement of this Act shall be registered at the office of the Board,

(2) The Mutawalli of every such wakf shall make an application for registration within three months of his entering into possession of the wakf property, or in the case of wakf existing at the time of formation of the first Board, within three months of the formation of such Board.

(3) Applications for registration may also be made by wakif or his descendants or a beneficiary of the wakf or any Muslim belonging to the sect to which the wakf belongs.

(4) An application under this section shall be accompanied by a true copy of the deed or deeds of wakf, together with a statement containing the following particulars as far as known to the applicant,—

(a) a description of the wakf properties sufficient for the identification thereof,

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- (b) the gross annual income from such properties,
 - (c) the amount of Government revenue, and cesses and of all rents and taxes payable in respect of the wakf properties,
 - (d) an estimate of expenses annually incurred in the realisation of, the income of the wakf properties,
 - (e) the amount set apart under the wakf for—
 - (i) the salary of the Mutawalli and allowances to individuals;
 - (ii) purely religious purposes;
 - (iii) charitable purposes;

Provided that every such applicant shall be verified by the Mutawalli in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings.

(5) The Board may require the applicant to supply any further particulars or information that it may consider necessary.

(6) On receipt of an application for registration, the Board may, before registration of wakf, make such enquiries as it thinks fit in respect of its genuineness and validity and the correctness of any particulars, in the statement filed with the application and when the application is made by any person holding possession of any property or properties belonging to the wakf, the Board shall give notice of the application to the person in possession and hear him, if he desires to be heard before passing final orders.

(7) An application for registration of wakfs may be presented or be sent by registered post to the office of the Board.

29. *Register of wakfs.*—The Board shall maintain a register of wakfs which shall contain the following particulars in respect of each wakf and shall also contain a copy or copies of the deed or deeds creating wakf when available,—

- (a) the names of trustees, Mutawalli and other persons connected with the administration of the wakf,
- (b) the rule of the succession of the office of the Trustees (if any), or Mutawallis under the deed or wakf or by custom or by usage,
- (c) particulars of the scheme of administration and the scale of expenditure at the time of registration,
- (d) particulars of all properties relating to the wakf and all title deeds and documents relating thereto, and
- (e) Such other particulars as may be prescribed.

30. *Power to order Mutawalli to apply.*—The Board may direct a Mutawalli to apply for the registration of a wakf, or to supply any information regarding a wakf or may itself collect such information and may cause the wakf to be registered or may at any time amend the register of wakfs.

CHAPTER IV

AUDIT OF ACCOUNTS

31. *Audit.*—The accounts kept by the Board and the accounts submitted by Mutawallis under section 50 shall be audited annually or at such other

intervals as may be determined by the Board by the auditors appointed under section 18 of this Act.

(2) The Auditors shall submit their report,—

(a) to the local Government in the case of accounts of a Board; and

(b) to the Board, in the case of the accounts of a wakf.

(3) The audit report of the auditors shall among other things, specify all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property or of loss or of waste of money or other property caused by neglect or misconduct of the Mutawalli.

32. *Examination of the Auditor's report.*—The Board shall examine the auditor's report and after calling for the explanation of any person in regard to any matter mentioned therein shall pass such orders on the report as it may think fit.

33. *Realization of Amount.*—Every sum certified to be due from any person by an auditor in his report under section 31, unless such certificate is modified or cancelled by the Board by an order made under section 32 and every sum due on a modified certificate shall be recoverable from such person by the Board.

CHAPTER V

ENQUIRY AND SUPERVISION

34. *Enquiries by the Board.*—For the purpose of verifying the particulars contained in the statement filed under section 28 or acting on the report of the auditor submitted under section 31, the Board may enquire into any matter either through any of its officer or members or any other person appointed under this behalf.

35. *Application for enquiry.*—Any member of the community to which the wakf belongs may by an application, supported by an affidavit, apply to the Board to institute any enquiry relating to the administration of a wakf, and the Board may take such action as it may think fit.

36. *Powers of enquiring officer.*—For the purposes of an enquiry under this Chapter the enquiring officer or committee shall have the same power of enforcing the attendance of witnesses and production of documents as the Civil Court has under the Code of Civil Procedure, 1908.

CHAPTER VI.

LEGAL PROCEEDINGS

37. *Civil suits relating to wakf.*—Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908 (Act V of 1908), a suit to obtain any relief mentioned in section 92 of the said Code, relating to any wakf to which this Act applies may be instituted by the Board without obtaining the consent referred to in that section, or by any person interested in the wakf with the previous sanction in writing of the Board and without obtaining the consent referred to in that section:

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 Provided that if in such suit the validity of propriety of any order or direction passed or made by the Board is challenged a suit shall be instituted without previous sanction after giving two months notice to the Board as provided in clause 38.

38. *Suits under Religious Endowments Act.*—A suit under section 14 of the Religious Endowments Act, 1863 (XX of 1863), concerning a wakf to which this Act applies, may, notwithstanding anything to the contrary contained in that Act be instituted by the Board without obtaining the leave referred to in section 18 of that Act, and no such suit shall be instituted by any person without the consent in writing of the Board.

39. *Protection of the Board Committees, and their staff.*—(1) Save as otherwise provided in this Act, no act done or direction issued by the Board *except an order settling the scheme of management of a wakf* shall be questioned in any court.

(2) No suit shall be instituted against the Board, or any of its members or servants or any other person deputed by the Board for carrying out any enquiry under this Act, for anything done by it or him in good faith in due discharge of his duties under this Act.

40. *Compromise in suits by or against mutawallis.*—No suit or proceedings in any court by or against a mutawalli of a wakf to which this Act applies, and relating to title to wakf property or to the rights of the mutawallis shall be compromised without the sanction of the Board.

41. *Notice of suits by courts.*—When any suit relating to title to any wakf property or to the right of Mutawalli is instituted in any Civil Court such court shall give a notice of such suit to the Board at the cost of the plaintiff.

42. *Notice of suits.*—No suit shall be instituted against the Board, in respect of any act purporting to be done by the Board in due discharge of its functions under this Act, or for any relief in respect of any wakf, until the expiration of two months next after notice in writing has been delivered to the Secretary, or left at the office of the Board, stating the cause of action the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

43. *Power of Board to make application to the court in case of failure of mutawalli to discharge his duties.*—Where a charge exists on any property for the performance of any religious, pious or charitable act recognised as such by Muslim Law and there is a failure to perform such an act the Board may apply to the Court for an order directing the person in possession of the property to pay to the Board the amount necessary for the performance by the Board, or to any person appointed by the Board in this behalf, of the act for the performance of which the charge was created.

44. *Application to compel mutawalli to discharge obligation or appointment of receiver.*—Where the mutawalli of a wakf wilfully fails to discharge any of the duty imposed on him under the wakf, the Board or any person interested in wakf may make an application to the court for an order,—

(a) directing the mutawalli to discharge such obligation within a time to be specified in the order, or

(b) appointing receiver of the funds and property of the wakf if the mutawalli fails to carry out such direction within the time so specified.

45. *Notice to Board of proceedings under the Land Acquisition Act, 1894, in respect of wakf of property.*—(1) In the course of a proceeding under the Land Acquisition Act, 1894 (I of 1894), the Collector before making an award in respect of wakf property, shall issue a notice to the Board and shall stay further proceedings to enable it to plead as a party to the proceedings at any time within three months from the date of the receipt of the notice.

(2) Where the Board has reason to believe that any property under acquisition is a wakf property, it may at any time before the award is made appear and plead as a party to the proceedings.

(3) When the Board has appeared under the provision of sub-section (2), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Board to be heard.

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Board to be heard shall be avoidable at the option of the Board.

46. *Notice of sales to be given to Board.*—(1) Whenever any wakf property is notified for sale in execution of a decree of a Civil Court under the provisions of any Act, for the recoveries of public demand or in pursuance of a decree or an order of a collector or any revenue officer such court, collector, or revenue officer, shall give notice thereof to the Board also.

(2) If the notice required by sub-section (1) to be given to the Board in respect of any sale is not given, the sale shall be voidable at the option of the Board.

CHAPTER VII

ADMINISTRATION CHARGES

47. *Contribution by wakf.*—(1) Every wakf to which this Act applies shall contribute annually for meeting the expenses incurred in the administration of this Act, such sum not exceeding five per cent of the net annual income of such of its property as is situate in the State as the Board, subject to the sanction of the State Government may determine:

Provided that in case of those educational institutions which do not receive any aid from the Government or of wakf whose income is less than rupees one hundred per annum the aforesaid percentage shall not be levied.

(2) Contribution under this section shall be payable with effect from the date on which this section comes into force.

(3) The Board may, in the case of any particular wakf or wakfs, reduce or remit such contribution as it may think fit.

(4) Such contribution shall, subject to the prior payment of any dues to the Government and any other Statutory charges on the wakf property or the income thereof, be a first charge on the income of the wakf.

(5) If a mutawalli or person in charge of the managing or administration of the wakf realizes the income of the wakf and neglects or refuses to pay such contribution he shall also be personally liable for such contribution to the extent of the balance of realization remaining in his hand after payment of Land Revenue, cesses and taxes due to Government and local bodies, and the liability may be enforced in the manner as aforesaid.

(6) The mutawalli of a wakf may realize the fee payable by him under sub-section (1) from the beneficiaries of such wakf, but the realizable fee from any one of such person shall not exceed such amount as shall bear to the total contribution payable the same proportion as the value of benefits recoverable by such persons bears to the entire net available income of such wakf:

Provided that if there is any income of such wakf in excess of the amount payable as due under this Act other than the fee payable under sub-section (1) and in excess of the amount payable under the wakf deed, the fee shall be paid in the first instance out of such income.

48. *Board's power to borrow.*—The Board shall have the power with the previous sanction of the State Government to borrow for the purpose of giving effect to the provisions of this Act, such amount and in such conditions as the State Government may determine.

CHAPTER VIII

MUTAWALLIS

49. *Appointment of mutawallis.*—When there is a vacancy in the office of mutawalli of a wakf and there is no one competent to be appointed under the terms of the deed of wakf, or where the right of any person to act as mutawalli is disputed, the Board may appoint any person to act as a mutawalli from such period and on such conditions as it may think fit.

50. *Duties of mutawallis.*—(1) Every mutawalli shall carry out all directions consistent with the provisions of this Act, issued to him by the Board of wakf or by a committee appointed by the Board for the purpose of proper administration of wakfs. In particular he shall,—

(a) supply the details of wakfs in his charge,

(b) submit within one month after the 31st day of March, next following the date on which the wakf has been registered under section 28 and thereafter within thirty days of the 31st day of March, in every year, a full and true statement of accounts in such form and containing such particulars as may be prescribed by the Board and verified in manner prescribed by the Code of Civil Procedure, 1908, for verification of pleadings of all moneys received or expended by him on behalf of the wakf of which he is the mutawalli in respect of that portion of the wakf property which is situate in the State during the period of twelve months ending on the 31st March preceding the submission of such statement or during that portion of the said period during which the provisions of this Act have been applicable to the wakf:

Provided that the date on which the annual accounts are to be closed may be verified at the discretion of the Board.

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 (2) All the details, accounts, and statements mentioned in sub-section (1) shall be submitted to Board. The mutawalli shall if and when required further be bound by himself or by his agent to attend at the audit of his accounts and to give all informations required relating to his accounts.

51. *Power of the Board to make certain payment on behalf of wakf.*—Where a mutawalli refuses to pay or fails to pay any Land Revenue, cesses, rent, rates of taxes due to the State or to a local Authority/Body from a wakf, the Board may defray the charges from the wakf fund and may recover the amount so paid from the wakf property and, if the refusal or failure of the mutawalli was in the opinion of the Board wilful, the Board may also recover from the mutawalli responsible for such refusal or failure damages at the rate of twelve and a half per cent of the amount so paid:

Provided that a mutawalli aggrieved by a decision of the Board to recover damages under this sub-section may apply to the court to have the order regarding damages set aside or modified and the order of the Court on such application shall be final.

52. *Removal of mutawallis by the Board.*—The Board may remove a mutawalli from his office if such mutawalli—

(a) after having once been convicted of an offence punishable under section 54 is again convicted of any such offence;

(b) is convicted of an offence relating to the wakf property or money which in the opinion of the Board renders him unfit to continue to be a mutawalli, or

(c) refuses to act;

(d) applies for being adjudicated or is an undischarged insolvent.

53. *Committee of supervision.*—(1) Whenever the supervision of a wakf is vested in any existing committee appointed by the wakf or any competent court of authority such committee shall, notwithstanding anything contained in the Act, continue to function until superseded by the Board under sub-section (2):

Provided that such committee shall be under the control of the Board and shall abide by such directions of the Board as or not inconsistent with any directions of the wakf or of the court or authority appointing such committee.

(2) The Board may supersede any such committee as aforesaid if it does not in its opinion function properly and satisfactorily, and on such supersession any decree or order of a court or competent authority under which such committee has been constituted shall cease to have any force.

(3) Any order passed by a Board under sub-section (2) shall be final and shall not be questioned in any court of law.

54. *Penalties.*—(1) If a mutawalli fails without reasonable cause or excuse the burden of proving which shall be upon him.—

(a) to apply for a registration of a wakf as provided in section 28, or

(b) to submit statement of particulars or of accounts and returns as required by this Act, or

(c) to supply information or particulars required by the Board, or

(d) to allow inspection under the provision of this Act, of wakf properties and deeds and documents relating thereto, or

(e) to give assistance in enquiries and investigations when called upon to do so by the Board or Committee appointed by the Board or by superintendents or auditors working under the orders of the Board, or

(f) to deliver possession of any wakf property if ordered to do so, by the Board,

(g) to deposit any surplus income in his hands in any recognized bank when directed to do so by the Board,

he will, on conviction before a magistrate of the first or second class be punishable with fine which may extend to rupees two hundred and fifty for the first offence and to rupees one thousand for every subsequent offence.

(2) No Magistrate shall take cognizance of an offence under sub-section (1) otherwise than on a complaint made by any person duly authorised by the Board in this behalf.

CHAPTER IX

RULES AND BYELAWS

55. *Rules by State Government.*—(1) The State Government may after previous publication in the Official Gazette may make rules not inconsistent with this Act for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the State Government may make rules with respect to all or any of the following matters,—

(a) the conditions and restrictions subject to which the Board may transfer any property under sub-section (2) of section 7 of the Act;

(b) the method in which the work of the survey of wakf under Chapter I is carried on;

(c) the manner in which the member shall be elected under section 8 of the Act;

(d) other matters expressly required or allowed by this Act to be prescribed or done by the State Government.

56. *Byelaws by the Board.*—(1) The Board may subject to the approval of the State Government make byelaws not inconsistent with this Act for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Board shall with the approval of the State Government have power to make byelaws with respect to,—

(a) all matters required or allowed by this Act to be prescribed or done by the Board,

(b) the Conduct of business by the Board,

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(c) the grant of travelling allowances to the President and members of the Board,

(d) the constitution, Functions and procedure of the committee appointed by the Board and their finance,

(e) the custody and investment of wakf funds,

(f) the custody and investment of the Fund of any wakf, and the conditions subject to which a mutawalli shall deposit wakf money in his hands and the conditions subject to which a Mutawalli can withdraw such money,

(g) books and accounts to be kept at the office of the Board and by the committee appointed by the Board,

(h) the manner in which the accounts of wakf shall be audited and published the time and place of such audit, the form and content of the auditors' report and the scale of remunerations to be paid to the auditors,

(i) the number, designation, grades, salaries, allowances, and other conditions of service, including the power and duties of the officers and servants of the Board,

(j) the custody of the common seal,

(k) the person by whom receipts may be granted for money received by the Board,

(l) the granting of pensions and gratuities out of wakf Funds,

(m) the method of calculating the income of a wakf, for the purpose of levying contribution under this Act,

(n) the fee to be levied on applications before the Board of committees under the Act, or on application for inspection of register of wakfs and other records and for copies of the proceedings and other records of the Board.

(3) All byelaws framed under this section shall be published in the Gazette and shall have thereafter the force of law.

57. *Names of members and President to be notified.*—The names of the members and President of the Board shall be published in the official Gazette of the State as soon as possible after their election or co-option as the case may be.

58. *Budget of the Board and sub-committee.*—A copy of the budget of the Board shall be submitted to the Government for information. The Board shall also give such information and submit such reports, returns and statements as may be called for by the local Government.

59. *Extension of time.*—The Board may, if it is satisfied that there is sufficient cause for doing so, extend time within which any act is required or ordered to be done under this Act.

60. *Wakf Fund.*—All moneys realized under section 47 and all moneys realized from fees in respect of proceedings before the Board and all other moneys realized under this Act, shall form a Fund to be called the 'Wakf Fund'.

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Such fund shall be under the control of the Board subject to the general supervision of the State Government and shall be applied to the following expenses which shall be met exclusively from that fund;

(a) repayment of any loan incurred under section 48 and payment of interest thereof;

(b) payment of the cost of audit of wakf Fund;

(c) payment of the salary and allowances of the Secretary and staff of the Board and the Secretary and the staff of sub-committee under the Board;

(d) payment of travelling allowances to the President, members, Secretary and staff of the Board or of any person deputed for any enquiry under the Act;

(e) payment of all expenses incurred by the Board and the sub-committee in the performance of the duties imposed and the exercise of the powers conferred by this Act.

61. *Disposal of fines under this Act.*—All fines realized by a magistrate under section 54 shall be paid to the Board and shall be part of the wakf fund.

62. *Liability of Government for expenses.*—Government shall not be liable for any expenditure incurred in the administration of this Act.

CHAPTER X

SAVINGS AND REPEAL

63. *Savings.*—Nothing in the following Regulations, Acts and provisions shall apply to any wakf to which this Act applies:—

(i) Bengal Regulation, XIX of 1810.

(ii) Section 5 of the Religious Endowments Act, 1863 (XX of 1863).

(iii) The Charitable Endowments Act, 1890 (VI of 1890).

(iv) The Charitable and Religious Trust Act, 1920 (XIV of 1920).

(v) Sections 5 to 10 of the Musalman Wakfs Act, 1923 (XLII of 1923).

64. *Repeal.*—Sections 3 and 4 of the Musalman Wakfs Act, 1923 (XLII of 1923), in their application to the U. P. and of Agra and Oudh are hereby repealed.

65. *Recovery of dues by distress.*—Every sum recoverable under section 33 and the contribution under section 47 may be recovered by the Board by means of distress of sale of movable property belonging to the person liable for payment, in accordance with the rules framed by the State Government in this behalf.

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THE SCHEDULE

(See section 2).

1. Wakfs governed by Act XV of 1878.
2. Wazir Begam Trust, Lucknow.
3. Agha Abbu Sahib Trust, Lucknow.
4. Shah Najaf Trust, King's side, Lucknow and, Queen's side, Lucknow.
5. Nazmain Trust, Lucknow.

STATEMENT OF OBJECTS AND REASONS

The management of Wakfs though it vests immediately in a mutawalli, is a subject which requires the supervision of the State. The need for supervision has been felt, and in addition to various enactments dealing with the subject of charitable endowments, the Musalman Wakf Act, 1923, (No. 42 of 1923) was enacted for the whole of India. This Act merely provides for the submission of audited accounts by the Mutawallis, to the district judges. This Act did not prove of much practical value. The Musalman Wakf (Bombay Amendment) Act, 1935 (XVIII of 1935) amended the Musalman Wakf Act, 1923 (42 of 1923). The Bengal Wakf Act, 1934 (No. XIII of 1934) was enacted to create a machinery for the supervision of wakfs in Bengal. The U. P. followed suit and the United Provinces Muslim Wakfs Act, 1936 (XII of 1936) was passed creating a Central Wakf Board. Similarly Bihar also passed a legislation almost on the same lines. The working of these Acts has brought out the necessity of some amendments. Further many of the States have got no Act for the purpose. It is therefore necessary, that one uniform and consolidated legislation may be passed by the Centre, which may be adopted as a model Act by the various States. It is with this view that the present Bill is introduced.

MOHAMMAD AHMAD KAZMI.

The following Bills were introduced in Parliament on the 14th April, 1951 :—

BILL No. 37 OF 1951

A Bill to provide for the administration and control of the Rajghat Samadhi in Delhi

Be it enacted by Parliament as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Rajghat Samadhi Act, 1951.

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(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act,—

(a) “Committee” means the Rajghat Samadhi Committee constituted under this Act;

(b) “Samadhi” means the structure built in token of reverence for Mahatma Gandhi at Rajghat on the Western bank of the Jamuna in Delhi, and includes the premises described in the Schedule with all buildings contained therein, together with all additions thereto or alterations thereof which may be made after the commencement of this Act.

3. *The Rajghat Samadhi Committee.*—(1) The administration and control of the Samadhi shall be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of “The Rajghat Samadhi Committee”, be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its Chairman.

4. *Composition of the Committee.*—(1) The Committee shall consist of the following members, namely :—

(a) the president of the municipal committee within the local limits of whose jurisdiction the Samadhi is situated, *ex-officio*;

(b) three officials nominated by the Central Government;

(c) three non-officials nominated by the Central Government.

(2) The Central Government may appoint any person referred to in clauses (a), (b) and (c) of sub-section (1) or any other person to be the Chairman of the Committee, and if any other person is so appointed, he shall be deemed to be a member of the Committee within the meaning of sub-section (1).

(3) All persons nominated by the Central Government to be members of the Committee shall hold office during the pleasure of the Central Government.

5. *Powers and duties of the Committee.*—Subject to such rules as may be made under this Act, the powers and duties of the Committee shall be—

(a) to administer the affairs of the Samadhi and to keep the Samadhi in proper order and in a state of good repair;

(b) to organise and regulate periodical functions at the Samadhi;

(c) to do such other things as may be incidental or conducive to the efficient administration of the affairs of the Samadhi.

6. *Power of Central Government to make rules.*—The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act, and to regulate access to the Samadhi or to any portion thereof.

7. *Power of Committee to make bye-laws.*—(1) The Committee may make bye-laws consistent with this Act and the rules made thereunder for all or any of the following purposes, namely :—

(a) the manner in which meetings of the Committee shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings;

(b) the appointment of such persons as may be necessary to assist the Committee in the efficient performance of its duties and the terms and conditions of service of such employees ;

(c) the duties and powers of the employees of the Committee ;

(d) the submission of accounts, returns and reports to the Committee by any of its employees.

(2) All bye-laws made under this section shall be subject to the condition of previous publication and shall not have effect until they are approved by the Central Government.

8. *Validity of acts of Committee not to be questioned by reason of vacancy, etc.*—No act or proceeding of the Committee shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of the Committee.

THE SCHEDULE

[See section 2 (b)]

The Samadhi premises admeasuring 44.35 acres, bounded
on the north by a vacant piece of land belonging to the Delhi Improvement Trust ;
on the south by Power House Road ;
on the east by the Power House ; and
on the west by Bela Road.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to ensure the proper maintenance, preservation and administration of the Rajghat Samadhi, the Shrine built in memory of the Father of the Nation.

The means proposed in this Bill to ensure this end is the establishment with certain powers of a Committee consisting of seven members, of whom four members will be non-officials. The Chairman of the Committee will be nominated by the Central Government.

The Committee shall do all things reasonable and necessary to ensure that the Rajghat Samadhi is properly maintained, controlled and administered. It shall make proper arrangements for the watch and ward of the Samadhi ; it shall organise and regulate periodical functions at the Samadhi, such as Sarvodaya Day, Friday prayers, Gandhi Jayanti ; and it shall control access to the Samadhi.

It is felt that without legislative enactment it will not be possible to enforce authority adequate for the purposes of maintenance and regulation of the Shrine.

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Ad hoc Committees depend too much upon personal factors and in a crisis the responsibility devolves upon the magistracy and the police. A statutory Committee is, therefore, being set up.

N. V. GADGIL.

NEW DELHI;

The 26th March, 1951.

BILL * No. 39 OF 1951.

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Indian Tariff (Second Amendment) Act, 1951.

2. *Amendment of section 4-A in Act XXXII of 1934.*—In sub-section (2) of section 4A of the Indian Tariff Act, 1934 (hereinafter referred to as the principal Act), for the words “in session”, wherever they occur, the word “sitting” shall be substituted.

3. *Amendment of the First Schedule, Act XXXII of 1934.*—In the First Schedule to the principal Act,—

(i) for Item No. 8 (3), the following Item shall be substituted, namely :—

“8 (3)”	Fruits, candied and crystallised	Protective ...	40 per cent. ad valorem.	...	...	December 31st, 1952”;
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(ii) for Item No. 20 (1), the following Item shall be substituted, namely :—

“20 (1)”	Fruit Juices, Squashes, Cordials and Syrups not otherwise specified—					
	(a) manufactured in a British Colony.	Revenue ...	26 per cent. ad valorem.	...	...	...
	(b) not manufactured in a British Colony.	Revenue ...	36 per cent. ad valorem.	...	...	... ”;

(iii) for Items Nos. 20 (3), 20 (4) and 20 (5), the following Items shall be substituted, namely :—

“20 (3)”	Fruits, canned, bottled or otherwise packed, not otherwise specified—					
	(a) manufactured in a British Colony.	Protective ...	26 per cent. ad valorem.	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective ...	36 per cent. ad valorem.	...	...	December 31st, 1952.

*The President has, in pursuance of clause (1) of article 117 of Constitution of India, recommended to Parliament the introduction of the Bill.

20 (4)	Jams, Jellies and Marmalades, canned, bottled or otherwise packed.	Protective ...	40 per cent. ad valorem.	...	...	December 31st, 1952.
20 (5)	Juices either individually or in mixture, of the following fruits, namely: Apricots, Berries, Grapes, Pineapple, Plums and Prunes—					
	(a) manufactured in a British Colony.	Revenue ...	30 per cent. ad valorem.	...	...	...
	(b) not manufactured in a British Colony.	Revenue ...	36 per cent. ad valorem.	...	...	...

(iv) for Items Nos. 20 (8) and 20 (9), the following Items shall be substituted, namely:—

20 (8)	The following fruits, canned or otherwise packed, namely: Apricots, Berries, Grapes, Plums and Prunes, and fruit salads composed not less than 80 per cent. in quantity and in value of the above named fruits—					
	(a) manufactured in a British Colony.	Protective ...	30 per cent. ad valorem.	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective ...	36 per cent. ad valorem.	...	...	December 31st, 1952.
20 (9)	Pineapples, canned or otherwise packed—					
	(a) manufactured in a British Colony.	Protective ...	28 per cent. ad valorem.	...	...	December 31st, 1952.
	(b) not manufactured in a British Colony.	Protective ...	36 per cent. ad valorem.	...	...	December 31st, 1952.

(v) for Item No. 48 (1), the following Item shall be substituted, namely:—

48 (1)	Fabrics, not otherwise specific, containing more than 90 per cent. of artificial silk—					
	(a) of British manufacture	Protective ...	30 per cent. ad valorem or 2½ annas per square yard, whichever is higher.	...	...	December 31st, 1952.
	(b) not of British manufacture.	Protective ...	50 per cent. ad valorem or four annas per square yard, whichever is higher.	...	...	December 31st, 1952.

(vi) for Item Nos. 48 (4) and 48 (5), the following Items shall be substituted namely :—

48 (4)	Fabrics, not otherwise specified, containing more than 10 per cent and not more than 90 per cent silk—				
	(a) containing more than 50 per cent of silk or artificial silk or of both.	Protective ...	50 per cent. ad valorem plus Rs. 2 per lb.	...	December 31st, 1952.
	(b) containing not more than 50 per cent of silk or artificial silk or of both—				
	(i) containing more than 10 per cent artificial silk.	Protective ...	50 per cent. ad valorem or Rs. 1-8-0 per lb., whichever is higher.	...	
	(ii) containing no artificial silk or not more than 10 per cent artificial silk.	Protective ...	50 per cent ad valorem.	...	December 31st, 1952.
48 (5)	Fabrics, not otherwise specified, containing no silk or containing not more than 10 per cent. silk but not more than 10 per cent. and not more than 90 per cent. artificial silk—				
	(a) containing 50 per cent. or more cotton—				
	(i) of British manufacture	Protective ...	30 per cent ad valorem or 2 annas per square yard, whichever is higher.	...	December 31st, 1952.
	(ii) not of British manufacture.	Protective ...	50 per cent ad valorem or 3½ annas per square yard, whichever is higher.	...	December 31st, 1952.
	(b) containing no cotton or containing less than 50 per cent cotton—				
	(i) of British manufacture	Protective ...	30 per cent ad valorem or 2½ annas per square yard, whichever is higher.	...	December 31st, 1952.
	(ii) not of British manufacture.	Protective ...	50 per cent ad valorem or 4 annas per square yard, whichever is higher.	...	December 31st, 1952."

(vii) in Item No. 48 (6), in the entry in the second column, after the word "specified", the words "containing no silk or artificial silk or" shall be inserted;

(viii) for Item No. 48 (7), the following Item shall be substituted, namely :—

“ 48 (7)	Fabrics, not otherwise specified, containing not more than 10 per cent Silk or 10 per cent. artificial silk or 10 per cent. wool, but containing more than 50 per cent cotton and not more than 90 per cent cotton— (a) of British manufacture. (b) not of British manufacture.	Protective ... Protective ...	25 per cent ad valorem. 50 per cent ad valorem.	...	December 31st, 1952. December 31st, 1952.”
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(ix) for Item No. 72 (33), the following Item shall be substituted, namely :—

“ 72 (33)	Pickers used in textile industries.	Protective ...	10 per cent ad valorem.	...	December 31st, 1952.”
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STATEMENT OF OBJECTS AND REASONS.

The object of the present Bill is to amend the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934) in order to extend the period of protection to the following industries on the advice of the Tariff Board :—

- (a) Preserved fruits.
- (b) Artificial silk and cotton and artificial silk-mixed fabrics, and
- (c) Pickers used in textile industries.

2. As regards (a), there are seven Tariff Items relating to fruit products which are subject to protective duties. Protection will be continued in respect of five items but withdrawn in respect of two. The effect of the amendments on the rates of duty under these items is indicated below :—

(i) *Fruits in syrup. Items Nos. 20 (3), 20 (8) and 20 (9).*

The standard rate will be reduced from 60 per cent to 36 per cent *ad valorem* the preferential rates being suitably adjusted.

(ii) *Fruits, candied and crystallised and jams, jellies and marmalades. Items Nos. 8 (3) and 20 (4).*

The rate will be reduced from 80 per cent to 40 per cent *ad valorem*.

(iii) *Fruit juices, squashes, cordials and syrups. Items Nos. 20 (1) and 20 (5).*

Protection will be withdrawn and the Standard rate will be reduced from 40 per cent to 36 per cent *ad valorem* which was the rate of revenue duty before protection was given, the preferential rates being suitably adjusted.

3. With regard to (b) and (c), no change has been made in the existing rates of duty.

4. Opportunity has also been taken to carry out certain minor amendments of a formal character.

D. P. KARMARKAR.

NEW DELHI;

The 12th April, 1951.

The following Bill was introduced in Parliament on the 17th April 1951 :—

BILL *No. 40 OF 1951.

**A
BILL**

to declare the institution known as "Visva-Bharati" to be an institution of national importance and to provide for its functioning as a unitary teaching and residential university.

BE it enacted by Parliament as follows :—

PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Visva-Bharati Act, 1951.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Declaration of Visva-Bharati as an institution of national importance.*—Whereas the late Rabindranath Tagore founded an institution known as Visva-Bharati at Santiniketan in the district of Birbhum in West Bengal the objects of which are such as to make the institution one of national importance, it is hereby declared that the institution known as 'Visva-Bharati' aforesaid is an institution of national importance.

3. *Definitions.*—In this Act and in all Statutes made hereunder, unless the context otherwise requires,—

(a) "Siksha Samiti" (Academic Council) means the Siksha Samiti (Academic Council) of the University;

(b) "Alumni Association" means the Association of the Alumni of the University constituted under the provisions of this Act and the Statutes;

(c) "Samsad" (Court) means the Samsad (Court) of the University;

(d) "Karma Samiti" (Executive Council) means the Karma Samiti (Executive Council) of the University;

(e) "Bhavan" (Hall) means a unit of residence with provision for tutorial instruction for students provided or recognised by the University;

(f) "Chatravasa" (Hostel) means a unit of residence for students provided or recognised by the University;

(g) "Statutes", "Ordinances" and "Regulations" mean respectively the Statutes, Ordinances and Regulations of the University for the time being in force;

(h) "teachers" means such persons as are engaged in imparting instruction and guiding students in practical work or otherwise in the University and in the institutions under its control, and includes professors, readers, lecturers, demonstrators and other grades of teachers appointed by the University;

(i) "University" means the institution known as Visva-Bharati incorporated as a University under this Act.

* The President has in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

4. *Incorporation.*—The first Acharya (Chancellor) and Upacharya (Vice-Chancellor) of the University who shall be the persons appointed in this behalf by the Central Government by notification in the Official Gazette, and the first members of the Samsad (Court), and all persons, who may hereafter become or be appointed as such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of Visva-Bharati, and shall have perpetual succession and a common seal, and shall sue and be sued by that name.

5. *Effect of incorporation of the University in certain cases.*—On and from the commencement of this Act,—

(i) all references in any enactment to the Society of the name of Visva-Bharati registered on the 16th May, 1922, under the Societies Registration Act, 1860 (XXI of 1860) shall be construed as references to the University ;

(ii) any will, deed or other document whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the said Society shall, on the commencement of this Act be construed as if the University was therein named instead of the said Society ;

(iii) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the said Society shall hold employment in the University by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held under the said Society, if this Act had not been passed :

Provided that if the University decides to alter the terms and conditions of service of any such employee, a fresh contract shall be executed for the purpose, and if the employee is not agreeable to serve under the new terms and conditions, his services may be terminated in accordance with his original contract of employment or, if no provision is made therein in this behalf, on payment to him by way of compensation of an amount equal to his salary for six months.

6. *Powers of the University.*—The University shall exercise the following powers and perform the following duties, namely :—

(a) to provide for research and instruction in such branches of learning as may be deemed desirable and be found practicable and for the promotion of understanding of cultures between the East and the West and for the advancement of learning and dissemination of knowledge generally ;

(b) to maintain colleges and Bhavans (halls) or recognise colleges and Bhavans (halls) not maintained by the University and to withdraw such recognition ;

(c) to organise, establish, affiliate, carry on and maintain or dissolve, disaffiliate or give up new branches or associated institutions having objects similar to those of the University ;

(d) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the University by exchange of teachers, scholars and generally in such manner as may be conducive to their common objects ;

(e) to provide for the promotion of rural reconstruction, social welfare, development of cottage industries, and all other nation-building activities and works of public benefit ;

(f) to hold examinations and grant such degrees, diplomas and other academic distinctions or titles to persons as may be laid down in the Statutes, Ordinances or Regulations ;

(g) to institute and appoint persons to professorships, readerships, lecturerships, fellowships and chairs or posts of any description ;

(h) to frame Statutes, Ordinances or Regulations, and alter, modify or rescind the same ;

(i) to receive gifts, donations or benefactions from Government and to receive bequests, donations, and transfers of movable or immovable properties from testators, donors or transferors, as the case may be ;

(j) to deal with any property belonging to or vested in the University in such manner as to the University may seem fit for advancing the objects of the University ;

(k) to do all such things as may be incidental or conducive to the attainment of the objects of the University or any of them.

7. *Territorial jurisdiction of the University.*—Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall be restricted to the area specified in the Schedule.

8. *University to be open to all races, creeds and classes.*—Subject to the Ordinances, the University shall be open to all persons irrespective of sex, nationality, race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession, in admitting or appointing members, students, teachers, workers, or in any other connection whatsoever, except in respect of any particular benefaction accepted by the University of which such test is made a condition by the instrument creating such benefaction :

Provided that no benefaction shall hereafter be accepted which in the opinion of the authorities of the University involves conditions or obligations opposed to the spirit and object of this section :

Provided further that nothing in this section shall be deemed to prevent religious instruction being given in any manner approved of by the authorities concerned to those who have given their consent thereto by teachers duly and properly authorised for that purpose.

9. *Teaching at the University.*—All recognised teaching at the University shall be conducted by and in the name of the University in accordance with the Statutes and Ordinances made in this behalf.

THE PARIDARSAKA (VISITOR)

10. *The Paridarsaka (Visitor).*—(1) The president shall be the Paridarsaka (Visitor) of the University.

(2) The Paridarsaka (Visitor) shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment, and of any institution maintained by the University and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University.

(3) The Paridarsaka (Visitor) shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(4) The Paridarsaka (Visitor) may address the Upacharya (Vice-Chancellor) with reference to the result of such inspection and inquiry, and the Upacharya (Vice-Chancellor) shall communicate to the Karma Samiti (Executive Council) the views of the Paridarsaka (Visitor) with such advice as the Paridarsaka (Visitor) may offer upon the action to be taken thereon.

(5) The Karma Samiti (Executive Council) shall communicate through the Upacharya (Vice-Chancellor) to the Paridarsaka (Visitor) such action, if any, as it is proposed to take or has been taken on the result of such inspection or inquiry.

(6) Where the Karma Samiti (Executive Council) does not, within a reasonable time, take action to the satisfaction of the Paridarsaka (Visitor), the Paridarsaka (Visitor) may, after considering any explanation furnished or representation made by the Karma Samiti (Executive Council), issue such directions as he may think fit, and the Karma Samiti (Executive Council) shall comply with such directions.

(7) The Karma Samiti (Executive Council) shall report to the Samsad (Court) at the next annual meeting the action, if any, that may have been taken or is proposed to be taken as a result of the inquiry made and the advice given by the Paridarsaka (Visitor).

THE PRADHANA (RECTOR)

11. *The Pradhana (Rector).*—The Governor of West Bengal shall be the Pradhana (Rector) of the University.

OFFICERS OF THE UNIVERSITY

12. *Officers of the University.*—The following shall be the officers of the University :—

- (i) the Acharya (Chancellor),
- (ii) the Upacharya (Vice-Chancellor),
- (iii) the Artha-Sachiva (Treasurer), and
- (iv) such other officers as may be declared by the Statutes to be officers of the University.

13. *The Acharya (Chancellor).*—(1) The successors to the first Acharya (Chancellor) shall be elected by the Samsad (Court) in the manner prescribed by the Statutes.

(2) The Acharya (Chancellor) shall hold office for three years, and by virtue of his office, be the Head of the University.

(3) The Acharya (Chancellor) shall, if present, preside at the Convocations of the University and at meetings of the Samsad (Court).

(4) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Acharya (Chancellor).

(5) The Acharya (Chancellor) shall have such other powers as may be conferred on him by this Act or the Statutes.

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14. *The Upacharya (Vice-Chancellor).*—(1) The Upacharya (Vice-Chancellor) shall be the principal academic and executive officer of the University, and the terms and conditions of service of the Upacharya (Vice-Chancellor) shall be as laid down by the Statutes.

(2) The Upacharya (Vice-Chancellor) shall exercise such powers and perform such functions as may be prescribed by the Statutes.

(3) The mode of appointment of the successors to the first Upacharya (Vice-Chancellor) shall be as laid down in the Statutes.

15. *The Artha-Sachiva (Treasurer).*—The Artha-Sachiva (Treasurer) shall be appointed in such manner, upon such conditions and for such period as may be laid down in the Statutes, and shall exercise general supervision over the funds of the University and shall perform such functions as may be prescribed by the Statutes and the Ordinances.

16. *Other Officers.*—The powers of officers of the University other than the Acharya (Chancellor), the Upacharya (Vice-Chancellor) and the Artha-Sachiva (Treasurer) shall be as prescribed by the Statutes.

AUTHORITIES OF THE UNIVERSITY

17. *Authorities of the University.*—The following shall be authorities of the University :—

- (1) the Samsad (Court),
- (2) the Karma Samiti (Executive Council),
- (3) the Siksha Samiti (Academic Council), and
- (4) such other authorities as may be declared by the Statutes to be authorities of the University.

18. *The Samsad (Court).*—(1) The Samsad (Court) shall consist of the following persons, namely :—

Class I—Ex-officio members

- (i) the Acharya (Chancellor),
- (ii) the Upacharya (Vice-Chancellor),
- (iii) the Minister of Education in the Government of West Bengal,
- (iv) the Artha-Sachiva (Treasurer),
- (v) principals of colleges,
- (vi) heads of departments.

Class II—Life members

(vii) persons who have been *pradhana*s of the Visva-Bharati Society immediately before the commencement of this Act,

(viii) such persons as may be appointed by the Paridarsaka (Visitor) either on his own motion or on the recommendation of the Karma Samiti (Executive Council) to be life members of the Samsad (Court) on the ground that they have rendered eminent service to education.

Class III—Other Members 504

(ix) representatives of the Alumni Association elected from among its own members,

(x) persons elected from among their own body by donors of such amounts as may be prescribed by the Statutes to or for the purposes of the University,

(xi) persons elected by Siksha Samiti (Academic Council) from among its own members,

(xii) representatives of Parliament elected by it,

(xiii) persons co-opted by the Samsad (Court),

(xiv) persons nominated by the Paridarsaka (Visitor),

(xv) persons nominated by the Pradhana (Rector),

(xvi) persons nominated by the Acharya (Chancellor).

(2) The number of members to be appointed, elected, co-opted or nominated under clauses (viii) to (xvi) of sub-section (1) and the tenure of office of members to be elected, co-opted or nominated under each clause of Class III of that sub-section and the mode of election of members to be elected shall be prescribed by the Statutes.

19. *Meetings of the Samsad (Court).*—(1) The Samsad (Court) shall, on a date to be fixed by the Upacharya (Vice-Chancellor), meet once a year at a meeting to be called the annual meeting of the Samsad (Court).

(2) The Upacharya (Vice-Chancellor) may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than one-third of the members of the Samsad (Court), convene a special meeting of the Samsad (Court).

20. *Powers and duties of the Samsad (Court).*—(1) The Samsad (Court) shall be the supreme governing body of the University and shall exercise all the powers of the University, not otherwise provided for by this Act, the Statutes, the Ordinances and the Regulations, and shall have power to review the acts of the Karma Samiti and Siksha Samiti (Executive and Academic Councils).

(2) Subject to the other provisions contained in this Act, the Samsad (Court) may—

(a) make Statutes;

(b) consider the Ordinances and the Regulations;

(c) consider and pass such resolutions on the annual report, the annual accounts and the financial estimates as it thinks fit;

(d) elect such persons to serve on authorities of the University and appoint such officers as may be prescribed by this Act or the Statutes; and

(e) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

21. *The Karma Samiti (Executive Council).*—The Karma Samiti (Executive Council) shall be the executive body of the University and its constitution and the term of office of its members shall be prescribed by the Statutes.

22. *Power and duties of the Karma Samiti (Executive Council).*—The Karma Samiti (Executive Council)—

(a) shall hold, control and administer the property and funds of the University, and for these purposes it shall have a Standing Finance Committee whose constitution and powers and duties shall be defined by the Statutes ;

(b) shall determine the form, provide for the custody and regulate the use, of the common seal of the University ;

(c) shall submit to the Central Government annually a full statement of the financial requirements of the University ;

(d) shall administer any funds placed at the disposal of the University for specific purposes ;

(e) subject to the provisions of the Act and the Statutes, shall appoint the officers [other than the Acharya (Chancellor), the Upacharya (Vice-Chancellor), and the Artha-Sachiva (Treasurer)] teachers and other servants of the University, and shall define their duties and the conditions of their service, and shall provide for the filling of temporary vacancies in their posts ;

(f) shall have power to accept on behalf of the University transfers of any movable or immovable property ;

(g) shall appoint examiners after consideration of the recommendations of the Siksha Samiti (Academic Council) ;

(h) shall arrange for the holding of, and publish the results of the University examinations ;

(i) may delegate, subject to such conditions as may be prescribed by the Ordinances its power to appoint officers, teachers and other servants of the University to such person or authority as the Karma Samiti (Executive Council) may determine ;

(j) shall exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes :

Provided that no action shall be taken by the Karma Samiti (Executive Council) in respect of the number, qualifications and status of teachers, otherwise than on a recommendation of the Siksha Samiti (Academic Council) ;

(k) shall exercise all other powers of the University not otherwise provided for by this Act or the Statutes.

23. *The Siksha Samiti (Academic Council).*—(1) The Siksha Samiti (Academic Council) shall be the academic body of the University, and shall subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes and shall have the right to advise the Karma Samiti (Executive Council) on all academic matters.

(2) The constitution of the Siksha Samiti (Academic Council) and the terms of office of its members shall be prescribed by the Statutes.

24. *Other authorities of the University.*—The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be as provided for in the Statutes.

25. *Alumni Association.*—The University shall have an Alumni Association open to past students and past workers of the University, including members of the Asramika Sangha of the former Visva-Bharati Society, on such conditions as may be laid down in the Statutes.

STATUTES, ORDINANCES AND REGULATIONS.

26. *Statutes.*—Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

- (a) the conferment of honorary degrees ;
- (b) the institution of fellowships, scholarships, exhibitions, medals and prizes ;
- (c) the designations and powers of the officers of the University ;
- (d) the terms of office and the method and conditions of election or appointment of the officers of the University ;
- (e) the constitution, powers and duties of the authorities of the University ;
- (f) the classification and mode of appointment and the determination of the terms and conditions of service of teachers of the University ;
- (g) the institution and maintenance of Bhawanas (Halls) and Chatra-vasas (hostels) ;
- (h) the constitution of pension, insurance and provident fund for the benefit of the officers, teachers and other servants of the University ;
- (i) the constitution and activities of the Alumni Association ;
- (j) the discipline of students ; and
- (k) any other matters which by this Act are to be or may be prescribed by the Statutes.

27. *Statutes how made.*—(1) The first Statutes shall be framed by the Central Government.

(2) The Statutes may be amended, repealed or added to by Statutes made by the Samsad (Court) in the manner hereinafter appearing.

(3) The Karma Samiti (Executive Council) may propose to the Samsad (Court) the draft of any Statute to be passed by the Samsad (Court), and such draft shall be considered by the Samsad (Court) at its next succeeding meeting. The Samsad (Court) may approve such draft and pass the Statute, or may reject it or return it to the Karma Samiti (Executive Council) for reconsideration, either in the whole or in part, together with any amendments which the Samsad (Court) may suggest.

(4) After any draft so returned has been further considered by the Karma Samiti (Executive Council), together with any amendments suggested by the Samsad (Court) returned thereto, it shall be again presented to the Samsad (Court) with the report of the Karma Samiti (Executive Council) thereon, and the Samsad (Court) may then deal with the draft in any way it thinks fit.

(5) Where any Statute has been passed or a draft of a Statute or part thereof has been rejected by the Samsad (Court), it shall be submitted to the Paridarsaka (Visitor), who may refer the Statute or draft back to the Samsad (Court) for further consideration or, in the case of a Statute passed by the Samsad (Court), assent thereto or withhold his assent.

(6) A Statute passed by the Samsad (Court) shall have no validity until it has been assented to by the Paridarsaka (Visitor).

(7) The Karma Samiti (Executive Council) shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of

the University until such authority has been given an opportunity of expressing an opinion upon the proposal, and any opinion so expressed shall be in writing and shall be considered by the Samsad (Court), and shall be submitted to the Paridarsaka (Visitor).

(8) The Samsad (Court) may of its own motion take into consideration the draft of any Statute:

Provided that in any such case before a Statute is passed affecting the powers or duties of the Acharya (Chancellor), the Upacharya (Vice-Chancellor) or the Artha-Sachiva (Treasurer) or any authority or board, the opinion of the Karma Samiti (Executive Council) and a report from the person or body concerned shall have been taken into consideration by the Samsad (Court).

28. *Ordinances.*—Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

- (a) the admission of students to the University;
- (b) the courses of study to be laid down for all degrees and diplomas of the University;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas;
- (d) the conditions of the award of the fellowships, scholarships, exhibitions, medals and prizes;
- (e) the conditions, mode of appointment and duties of examining bodies, examiners and moderators;
- (f) the conduct of examinations;
- (g) the conditions of residence of the students of the University and the levying of fees for residence in Bhawanas (Halls) and Chatravasas (Hostels) and of other charges;
- (h) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, and diplomas of the University;
- (i) the maintenance of discipline among the students of the University;
- (j) the number and qualifications of teachers of the University;
- (k) the formation of departments of teachers; and
- (l) any other matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

29. *Ordinances, how made.*—(1) Save as otherwise provided in this section, Ordinances shall be made by the Karma Samiti (Executive Council):

Provided that—

- (a) no Ordinance shall be made affecting the admission or enrolment of students, or prescribing examinations to be recognised as equivalent to the University examinations unless a draft of the same has been proposed by the Siksha Samiti (Academic Council); and
- (b) no Ordinance shall be made affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study, except in accordance with a proposal of the Siksha Samiti (Academic Council) and unless a draft of such Ordinance has been proposed by the Siksha Samiti (Academic Council) in the manner prescribed by the Statutes; and
- (c) no Ordinance shall be made affecting the conditions of residence

of students, except after compliance with such conditions as may be prescribed by the Statutes.

(2) The Karma Samiti (Executive Council) shall not have the power to amend any draft proposed by the Siksha Samiti (Academic Council) under the provisions of sub-section (1), but may reject it or return it to the Siksha Samiti (Academic Council) for reconsideration either in whole or in part, together with any amendments which the Karma Samiti (Executive Council) may suggest.

(3) All Ordinances made by the Karma Samiti (Executive Council) shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Paridarsaka (Visitor) and the Samsad (Court), and shall be considered by the Samsad (Court) at its next succeeding meeting.

(4) The Samsad (Court) shall have power by a resolution passed by a majority of not less than two-thirds of the members present at such meeting to cancel any such Ordinance and such Ordinance shall, from the date of such resolution, be void.

(5) The Paridarsaka (Visitor) may, at any time after any Ordinance has been considered by the Samsad (Court), signify to the Samsad (Court) and the Karma Samiti (Executive Council) his disallowance of such Ordinance, and from the date of receipt by the Karma Samiti (Executive Council) of intimation of such disallowance, such Ordinance shall become void.

(6) The Paridarsaka (Visitor) may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Samsad (Court), whichever period expires later.

(7) Where the Karma Samiti (Executive Council) has rejected the draft of an Ordinance proposed by the Siksha Samiti (Academic Council), the Siksha Samiti (Academic Council) may appeal to the Samsad (Court) which, after obtaining the views of the Karma Samiti (Executive Council), may, if it approves the draft make the Ordinance and submit it to the Paridarsaka (Visitor), for approval.

30. *Regulations.*—(1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by the Regulations; and

(c) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by this Act, the Statutes and the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Karma Samiti (Executive Council) may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the amendment of any Regulation made under sub-section (1).

31. *Residence.*—Every student of the University shall reside in a Bhavan (Hall) or Chatravasa (Hostel) or under such conditions as may be prescribed by the Statutes and the Ordinances.

ADMISSION AND EXAMINATIONS

32. *Admission.*—Admission of students to the University shall be made in such manner as may be prescribed by the Ordinances.

33. *Examinations.*—Subject to the provisions of the Statutes, all arrangements for the conduct of examinations shall be made by the Karma Samiti (Executive Council) in such manner as may be prescribed by the Ordinances.

ANNUAL REPORTS AND ACCOUNTS

34. *Annual Reports.*—(1) The annual report of the University shall be prepared under the directions of the Karma Samiti (Executive Council), and shall be submitted to the Samsad (Court) on or before such date as may be prescribed by the Statutes, and shall be considered by the Samsad (Court) at its annual meeting.

(2) The Samsad (Court) may pass resolutions on the annual report and communicate the same to the Karma Samiti (Executive Council) which shall take such action as it thinks fit, and the Karma Samiti (Executive Council) shall inform the Samsad (Court) of the action taken by it, and when no action is taken, of its reasons therefor.

35. *Annual accounts.*—(1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Karma Samiti (Executive Council), and shall be submitted to the Central Government.

(2) The audit of the accounts of the University shall be carried out according to the directions of the Central Government.

(3) Copies of the audited accounts together with copies of the audit report, if any, shall be submitted to the Samsad (Court) and to the Paridarsaka (Visitor).

(4) The annual accounts and the financial estimates shall be considered by the Samsad (Court) at its annual meeting, and the Samsad (Court) may pass resolutions thereon and communicate the same to the Karma Samiti (Executive Council) which shall take them into consideration and take such action thereon as it thinks fit or inform the Samsad (Court) when no action is taken, of its reasons therefor.

SUPPLEMENTARY PROVISIONS

36. *Conditions of service of officers and teachers.*—Every salaried officer and teacher of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

37. *Tribunal of Arbitration.*—Every dispute arising out of a contract between the University and any of its officers or teachers shall be referred to a Tribunal of Arbitration consisting of one member appointed by the Karma Samithi (Executive Council), one member nominated by the officer or teacher concerned and an umpire appointed by the Paridarsaka (Visitor), and the decision of the Tribunal shall be final.

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38. *Pension and provident funds.*—(1) The University shall constitute, for the benefit of its officers [including the Upacharya (Vice-Chancellor)], teachers, and other servants, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

(2) Where any such pension, insurance or provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 (XIX of 1925) shall apply to such fund as if it were a Government Provident Fund.

39. *Filling of casual vacancies.*—(1) Subject to any provision in this Act and in the Statutes, the Karma Samiti (Executive Council), shall appoint with the approval of the Paridarsaka (Visitor) a person to fill a casual vacancy in the office of the Upacharya (Vice-Chancellor), and the person so appointed shall hold office till the next meeting of the Samsad (Court).

(2) All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon conveniently may be, by the person or body, who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

40. *Removal from membership of the University.*—The Samsad (Court) may, on the recommendation of not less than two-thirds of the members of the Karma Samiti (Executive Council) remove any person from membership of any authority or board of the University in case of a serious offence involving moral turpitude, or if he has been guilty of scandalous conduct and for the same reasons may withdraw any degree or diploma conferred or granted by the University.

41. *Disputes as to constitution of any University, authority or bodies.*—If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Paridarsaka (Visitor) whose decision thereon shall be final.

42. *Constitution of committees.*—Where any authority of the University is given power by this Act or by the Statutes to appoint committees, such committee shall, unless there is some special provision to the contrary, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

43. *Proceedings of the University authorities not invalidated by vacancies.*—No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

44. *Power to remove difficulties.*—If any difficulty arises with respect to the establishment of the University or any authority of the University or in connection with the first meeting of any authority of the University, the Central Government may, by order, make any appointment or do anything which appears to it necessary or expedient for the proper establishment of the University or any authority thereof or for the first meeting of any authority of the University.

THE SCHEDULE

(See section 7)

The territorial limits of the University.

The area known as Santiniketan in the District of Birbhum in West Bengal, admeasuring 11.5 square miles, bounded—

- on the north by the Kopai River,
- on the west by a line running from Ballavpur and Bonuri villages to Bandgora,
- on the south by a line running from Bandgora via Bolpur Dak Bungalow to the bridge over the East Indian Railway cutting and
- on the east by the East Indian Railway line.

STATEMENT OF OBJECTS AND REASONS

The Visva-Bharati founded by Dr. Rabindranath Tagore at Santiniketan in 1921 is a unique institution, and has since its inception served as a centre for the study of, and research in, the different cultures of the East on the basis of their underlying unity, and has sought to approach the West from the standpoint of such a unity of the life and thought of Asia. The institution has acquired a world-wide recognition and has attracted scholars and pupils from many countries all over the world.

2. The University Education Commission commended the special and very valuable work done by this institution, particularly its "effort to discover, preserve and transmit the vast elements of old Indian culture, and the work with the surrounding villages" and recommended that the Visva-Bharati should be given a provisional Charter as a University with suitable capital and recurring grants. The recommendations of the University Education Commission were approved by the Central Advisory Board of Education at its meeting in April 1950, and the Government of West Bengal agree to the establishment of a unitary, teaching and residential University at Santiniketan by an Act of Parliament.

3. There is no provision in the Constitution of India for the grant of a Charter (as distinct from an Act) as recommended by the University Education Commission, but the Constitution makes the Union Government responsible for institutions declared by law to be of national importance (*vide* item 63 of List I of the Seventh Schedule to the Constitution).

4. It is, therefore, proposed to make such a declaration and have the Visva-Bharati constituted as a Central University. The constitution that is proposed to be given to Visva-Bharati is in conformity with the recommendations made by the University Education Commission with such modifications as are considered necessary to preserve the tradition and special features of the institution.

ABUL KALAM AZAD.

NEW DELHI,

The 31st March, 1951.

M. N. KAUL,

Secretary.

PART IV

Section 1-C

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.S. 1900—L. W. 103-51-2, dated 10th August 1951.

The draft of the following Rules under the Industrial Employment (Standing Orders) Act, 1946, (*Central Act XX of 1946*), which it is proposed to make in exercise of the powers conferred by Section 15 of the said Act is hereby published for the information of all persons likely to be affected thereby, as required by the said section.

Objections or suggestions, if any, to the draft Rules may be forwarded to the Secretary to Government, Law Department, Public Offices, Bangalore, through the Commissioner of Labour in Mysore, for consideration so as to reach him not later than one month from the date of publication of this Notification in the *Mysore Gazette*.

THE MYSORE INDUSTRIAL EMPLOYMENT (STANDING
ORDERS) RULES, 1951.

1. (1) These Rules may be called the Mysore Industrial Employment (Standing Orders) Rules, 1951.

(2) They extend to the whole of the State of Mysore.

2. In these Rules, unless there is anything repugnant in the subject or context:—

(a) "Act" means the Industrial Employment (Standing Orders) Act, 1946, (*Central Act XX of 1946*).

(b) "Form" means a form set out in Schedule II appended to these Rules.

3. The Model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these Rules.

4. An application for certification of Standing Orders shall be made in Form I.

5. The prescribed particulars of workmen, for the purposes of sub-section (3) of Section 3 of the Act shall be:—

- (1) Total number employed;
- (2) Number of permanent workmen;
- (3) Number of temporary workmen;
- (4) Number of badlis or substitutes;
- (5) Number of probationers;
- (6) Number of apprentices;
- (7) Name of the Trade Union or Trade Unions, if any, to which the workmen belong;
- (8) Remarks.

6. As soon as may be after he receives an application under Rule 4 in respect of an industrial establishment, the certifying officer shall:—

(a) where there is a trade union of the workmen, forward a copy of the draft Standing Orders to the trade union together with a notice in Form II.

(b) where there is no such trade union, call a meeting of the workmen to elect three representatives to whom he shall, upon their election, forward a copy of the draft Standing Orders together with a notice in Form II.

7. Standing Orders certified in pursuance of sub-section (3) of Section 5 or sub-section (2) of Section 6 of the Act shall be authenticated by the signature and seal of office of the certifying or appellate authority, as the case may be, and shall be forwarded by such officer or authority within a week of authentication by registered letter post to the employer and to the trade union or the representatives of the workmen elected in pursuance of rule 6 as the case may be.

8. The Register required to be maintained by Section 8 of the Act shall be in Form III and shall be properly bound and the certifying officer shall furnish a copy of Standing Orders approved for an industrial establishment to any person applying therefor on payment of a fee of rupee one a copy.

SCHEDULE I. 514

MODEL STANDING ORDERS.

1. These orders shall come into force on
2. Classification of workmen — (a) Workmen shall be classified as:—

- (1) Permanent,
- (2) Probationers,
- (3) Badlis,
- (4) Temporary,
- (5) Casual,
- (6) Apprentices.

(b) A "permanent" workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lock-out, strike, (not being an illegal strike) or involuntary closure of the establishment.

(c) A "Probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A "badli" is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A "temporary" workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A "casual" workman is a workman whose employment is of a casual nature.

(g) An "apprentice" is a learner who is paid an allowance during the period of his training.

3. *Tickets.*—(1) Every workman shall be given a permanent ticket unless he is a probationer, badli, temporary worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorised by the manager to inspect it.

(3) Every 'Badli' shall be provided with a badli card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a "temporary ticket" which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a "casual" card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with an "apprentice" card, which shall be surrendered if he obtains permanent employment.

4. *Publication of Working time.*—The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

5. *Publication of holidays and pay days.*—Notices specifying.—

(a) the days observed by the establishment as holidays and

(b) pay days shall be posted on the said notice boards.

6. *Publication of Wage rates.*—Notices specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

7. *Shift Working.*—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without one month's notice being given prior to such discontinuance provided that no such notice shall be necessary, if, as a result of the discontinuance of the shift, no permanent employee will be discharged. If, as a result of discontinuance of shift working, any permanent workmen are to be discharged, they shall be discharged, having regard to the length of their service in the establishment, those with the shortest term of service being discharged first. If shift working is re-started, a week's notice thereof shall be given by posting a notice at the main entrance of the establishment and the time-keeper's office, if any, and the workmen discharged as a result of the discontinuance of the shift, shall if they present themselves at the time of the re-starting of the shift, have preference in being re-employed having regard to the length of their previous service under the establishment, those with the longest term of service being re-employed first.

8. *Attendance and late coming.*—All workmen shall be at work at the establishment at the times fixed and notified under paragraph 4. Workmen attending late will be liable to deductions provided for in the Payment of Wages Act, 1936.

9. *Leave.*—(1) Holidays with pay will be allowed as provided for in Chapter VIII of the Factories Act, 1948, and other holidays in accordance with law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the manager, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for, is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave, desires an extension thereof, he shall apply to the manager, who shall send a written reply either granting or refusing extension of leave to the workman if his address is

available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within eight days of the expiry of the leave and (b) explains to the satisfaction of the manager his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the "badli" list.

10. *Casual Leave*.—A workman may be granted casual leave of absence with or without pay not exceeding ten days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in cases of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken but when this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence and of the probable duration of such absence.

11. *Payment of Wages*.—(1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay-day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

12. *Stoppage of work*.—(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the department concerned, or at the office of the manager, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained, shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppages. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of unemployment, shall be treated as compulsory leave

either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work as to when work will be resumed.

13. (1) *Termination of employment*—For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workman—one month's notice in the case of monthly rated workmen and two week's notice in the case of other workmen; one month's or two week's pay, as the case may be, may be paid in lieu of notice.

(2) No temporary workman whether monthly-rated, weekly-rated or piece-rated and no probationer or badli shall be entitled to any notice or pay in lieu thereof if his services are terminated, but the services of a temporary workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in paragraph 14.

(3) Where the employment of any workman is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the date on which his employment is terminated.

14. *Disciplinary action for misconduct*.—A workman may be fined up to two per cent of his wages in a month for any of the following acts and omissions, namely:—

.....

NOTE.—Specify the acts and omissions which the employer may notify with the previous approval of the State Government or of the prescribed authority in pursuance of section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct:—

(a) wilful insubordination or disobedience, whether alone or in combination with others to any lawful and reasonable order of his superior,

(b) theft, fraud, or dishonesty in connection with the employer's business or property.

- (c) wilful damage to, or loss of employers' goods or property,
- (d) taking or giving bribes or any illegal gratification,
- (e) habitual absence without leave or absence without leave for more than ten days,
- (f) habitual late attendance,
- (g) habitual breach of any law applicable to the establishment.
- (h) riotous or disorderly behaviour during working hours of the establishment or any act subversive of discipline,
- (i) habitual negligence or neglect of work,
- (j) frequent repetition of any act of omission for which a fine may be imposed to maximum of two per cent of the wages in a month,
- (k) striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law

(4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. The approval of the manager of the establishment or where there is no manager, of the employer is required in every case of dismissal and, when circumstances appear to warrant it, the manager or the employer may institute independent enquiries before dealing with charges against the workman.

(5) An order of suspension shall be in writing and may take effect immediately on delivery to the workman. Such order shall set out in detail the alleged misconduct and the workman shall be given an opportunity of explaining the circumstances alleged against him. If on enquiry the order is confirmed, the workman shall be deemed to have been absent from duty for the period of suspension and shall not be entitled to any remuneration for such period. If, however, the order is rescinded the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended.

(6) In awarding punishment under this standing order, the manager shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the Manager shall be supplied to the workman concerned.

15. *Complaints.*—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with a right of appeal to the employer.

16. *Certificate of termination of service.*—Every permanent workman shall be entitled to a Service Certificate at the time of his dismissal, discharges or retirement from service.

17. *Liability of Manager.*—The manager of the establishment shall personally be held responsible for the proper and faithful observance of the Standing Orders.

18. *Exhibition of Standing Orders.*—A copy of these orders in English and in Kannada shall be posted at the manager's office and on a notice board maintained at or near the main entrance of the establishment and shall be kept in legible condition.

SCHEDULE II.

FORM I.

(Industrial Employment (Standing Orders) Act, 1936).

(Section 3).

To
The Certifying Officer, Government of Mysore.

Sir,

Under the provisions of Section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders prepared by me for adoption in.....

(Name)

.....

(Place)

(Postal Address).

an industrial establishment owned/controlled by me, with the request that these orders may be certified under the terms of Act. I also enclose a statement giving the particulars prescribed in rule 5 of the Mysore Industrial Employment (Standing Orders) Rules 1951.

I am etc.,

(Signature).....

Employer,
Manager.

FORM II.

(Notice under Section 5 of the Industrial Employment (Standing Orders) Act, 1946) Office of the Certifying Officer,

Area place

Dated, the.....19 :

I, ... Certifying Officer.....
area, forward herewith a copy of the draft Standing Orders proposed by the employer for adoption in the industrial establishment and submitted to me for certification under the Industrial Employment (Standing Orders) Act, 1946. Any objections which the workman may desire to make to the draft standing orders should be submitted to me within fifteen days from the date of receipt of this notice.

(Certifying Officer)

Seal

To 520
 The Secretary,
 Union,

Representative elected under Rule 6. Name.....
 Occupation.....
 Industrial Establishment.....

FORM III.

(Industrial Employment (Standing Orders) Act, 1946—Section 8)

Register Part. I

Industrial Establishment.

Serial No.	Date of the despatch of the copy of Standing Orders authenticated under Section 5 for the first time	Date of filing appeal	Date and nature of decision	Amendments made on appeal, if any	Date of the despatch of copy Standing Orders as settled on appeal	Any notice subsequently given or received on any amendment	Result

PART II.

(Should contain the authenticated copy of the Standing Orders).

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
 Secretary to Government
 Law Department.*

NOTIFICATION.

No. L.D. 903—Legis. 5-51-32, dated Bangalore, the 18th August 1951.

Ordered that Notification No. D. 6285-BI—51, dated the 28th July 1951 of the Ministry of Finance amending the Public Debt (Central Government) Rules, 1946, published in the *Gazette of India*, Part I, Section 1, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF FINANCE.

(Department of Economic Affairs)

New Delhi, the 28th July 1951.

No. D. 6285-BI—51. In exercise of the powers conferred by Section 28 of the Public Debt Act, 1944 (XVIII of 1944), the Government of India are pleased to make the following amendments to the Public Debt (Central Government) Rules, 1946, the same having been previously published as required by sub-section (1) of the said section, namely:—

Amendments.

In the said Rules—

1 After Rule 7 the following rule shall be inserted, namely:—

“7A. *Non-transferability of Treasury Savings Deposit Certificates.*—(1) Government Securities issued in the form of Treasury Savings Deposit Certificates shall not be transferable:

Provided that such a security may be transferred by endorsement to a gazetted Government official or an executive officer of a local authority, as defined in the General Clauses Act, 1897, in his official capacity or to the Reserve Bank of India, for the specific purpose of its being held by such transferee as security. Such transferee shall, during the continuance of such transfer, be deemed, for the purposes of these Rules, to be the holder of the Certificate.

(2) Where such a security has been transferred under the proviso to sub-rule (1), it may be retransferred to the depositor by endorsement; on such retransfer, the depositor shall receipt the Certificate for renewal and obtain a renewed Certificate from the Bank.”

2 After Rule 8 the following rule shall be inserted, namely :—

"8A. *Provision for holding Treasury Savings Deposit Certificates by trustees and office holders*,—The provisions of Rule 8 relating to holding of stock by trustees and office holders shall apply *mutatis mutandis* to a Treasury Savings Deposit Certificate."

3 In Rule 9 after sub-rule (3) the following sub-rule shall be inserted, namely :—

"(3A) *Treasury Savings Deposit Certificate*.—Interest on a Treasury Savings Deposit Certificate may be made payable at any treasury or sub-treasury in India, subject to compliance by the holder with such formalities as the Public Debt Office may require and interest shall accordingly be paid at such treasury or sub-treasury or Public Debt Office on presentation of the Treasury Savings Deposit Certificate itself. The payee shall give a receipt in Form IVA. Where, however, interest on a Treasury Savings Deposit Certificate is payable at a place where a Public Debt Office is located, the certificate shall be presented at the Public Debt Office which shall issue an interest warrant in favour of the holder payable at the local office of the Bank. Notwithstanding anything contained herein the Public Debt Office may pay interest on a Treasury Savings Deposit Certificate, the interest on which is payable at a treasury or sub-treasury by an interest warrant payable at such treasury or sub-treasury."

4 In Rule 11 for the word and figure "or 17" the word and figures "17 or 17 A" shall be substituted.

5 After Rule 17 the following rule shall be inserted, namely :—

"17A. *Procedure when Treasury Savings Deposit Certificate is lost, etc.*—

1) Every application for issue of a duplicate certificate in place of a Treasury Savings Deposit Certificate which is alleged to have been lost, stolen, destroyed, mutilated or defaced, either wholly or in part shall be addressed to the Public Debt Office and shall be accompanied by

(a) a statement of the following particulars, namely :—

(i) the last half-year or year as the case may be, for which interest has been paid ;

(ii) the place for payment of interest at which the certificate was for the time being enfaced ;

(iii) the circumstances of the loss, theft, destruction, mutilation or defacement ; and

(iv) whether the loss was reported to the police ;

(b) the post office registration receipt for the letter containing the deposit certificate, if it was lost in transmission by post ;

(c) a copy of the police report if the loss or theft was reported to the police ;

(d) an affidavit sworn before a Magistrate testifying that the applicant is the legal holder of the certificate and that the certificate is not in his possession nor has it been pledged or otherwise dealt with by him ; and

(e) any portions or fragments which may remain of the lost, stolen, destroyed mutilated or defaced certificate.

(2) A duplicate of the letter to the Public Debt Office but not of its enclosures shall also be sent to the treasury where interest is payable.

(3) The Bank shall, if it is satisfied of the loss, theft, destruction, mutilation or defacement of the certificate, order the Public Debt Office to issue a duplicate Treasury Savings Deposit Certificate in lieu of the original certificate."

6 In Rules 19 and 20 for the figure '17' the figure and letter "17 A" shall be substituted.

7 After Rule 21, the following rule shall be inserted, namely :—

" 21A. *When a Treasury Savings Deposit Certificate is required to be renewed.*—(1) The holder of a Treasury Savings Deposit Certificate may be required by Public Debt Office to receipt the same for renewal in any of the following cases, namely :—

- (a) if the certificate is torn or in any way damaged or unfit in the opinion of the Public Debt Office;
- (b) if the interest on the certificate has remained undrawn for ten years or more;
- (c) if the interest cages on the reverse of the certificate have been completely filled or if the vacant printed cages on the reverse of the certificate do not correspond with the period for which interest has become due on the date when the certificate is presented for drawal of interest;
- (d) if the certificate having been enfaced three times for payment of interest is presented for re-enfacement; and
- (e) if in the opinion of the Public Debt Office the title of the person presenting the certificate for payment of interest is irregular or not fully proved.

(2) When requisition for renewal of a Treasury Savings Deposit Certificate has been made under sub-rule (1) payment of any further interest thereon may be refused until it is receipted for renewal and actually renewed."

8 In Rule 24, after clause (n) in sub-rule (1) the following clause shall be inserted, namely :—

"(o) renew, sub-divide or consolidate a Treasury Savings Deposit Certificate provided that the certificate or certificates has or have been receipted in Form VIA, VIIA or VIIIA, as the case may be."

9 In sub-rule (1) of Rule 25—

- (a) in clause (c) the word "and" shall be omitted;
- (b) in clause (d) the word "and" shall be inserted at the end;
- (c) after clause (d) the following clause shall be inserted, namely :—
- "(e) a Treasury Savings Deposit Certificate."

10 In the Schedule—

(a) After Form IV the following form shall be inserted, namely :—

"FORM IVA

[See Rule 9 (3A)]

Receipt for interest on Treasury Savings Deposit Certificates
.....per cent.....Treasury Savings Deposit Certificates

Received from the Government Treasury at.....interest due on Treasury Savings Deposit Certificates as follows :—

No. of Certificate	Amount on each Certificate	Amount of half-yearly/yearly interest	For how many half years/years interest is due	Total amount due	Date up to which interest is due	Name of holder of Certificates
	Rs.	Rs. a. p.		Rs. a. p.		
			Total ...			

Deduct—Income tax..... pies.

Net amount payable.

Total received (in words).....

Signature.....

(State whether holder or holder's attorney or administrator).....

(b) After Form VI the following form shall be inserted, namely :—

“ FORM VIA

(See Rule 24)

Form of Indorsement for renewal of a Treasury Savings Deposit Certificate.

Received in lieu hereof a renewed certificate payable to (name of holder), with interest payable at.....Treasury.

Signature of the holder/duly authorised representative of (name of holder).....

(c) After Form VII the following form shall be inserted, namely :—

“ FORM VIIA

(See Rule 24)

Form of Indorsement for sub-division of a Treasury Savings Deposit Certificate.

Received in lieu hereof.....certificates for Rs..... respectively payable to (name of holder), with interest payable at.....Treasury.

Signature of the holder/duly authorised representative of (name of holder).....

(d) After Form VIII the following form shall be inserted, namely :—

"FORM VIIIA

(See Rule 24)

Form of Indorsement for consolidation of Treasury Savings Deposit Certificates.

Received in lieu hereof a new certificate payable to (name of holder) for
 Rs.....by consolidation with certificate or certificates Nos.....
 (mentioning the numbers and amounts of the other certificates desired to be consoli-
 dated with it) with interest payable at.....Treasury.

Signature of the holder/duly authorised representative of (name of holder).....

H. S. NEGI, Dy. Secy.

NOTIFICATION.

No. L. D. 904—Legis. 6-51-21, dated Bangalore, 18th August 1951.

Ordered that the Notification No. S.R.O. 1121, dated the 24th July 1951, of the Ministry of Finance under the Indian Companies Act, 1913, constituting the Commission published in the *Gazette of India*, Part II, Section 3, dated the 24th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
 Secretary to Government,
 Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF FINANCE.

Department of Economic Affairs

NOTIFICATION

COMPANY LAW.

New Delhi, the 24th July 1951.

S.R.O. 1121.—In exercise of the powers conferred by Sub-section (1) of section 289-B of the Indian Companies Act, 1913 (VII of 1913), the Central Government hereby appoints the following persons as Members of the Commission namely :—

- (1) Shri C. H. Bhabha.
- (2) Shri N. Sundaresan.
- (3) Shri D. L. Mazumdar, I.C.S.

and appoints Shri C. H. Bhabha to be the Chairman thereof.

[No. F. 23(37)-ICL/51.]

K. G. AMBEGAOKAR,

Secretary to the Government of India.

NOTIFICATION. *S. 6*

No. L.D. 905—Legis. 6-51-22, dated Bangalore, 18th August 1951.

Ordered that the Notification No. S.R.O. 1122, dated the 24th July 1951, of the Ministry of Finance under the Indian Companies Act, 1913, prescribing the form of statement under section 289-B. (3) published in the *Gazette of India*, Part II, Section 3, dated the 24th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government, Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF FINANCE.

Department of Economic Affairs

NOTIFICATION

COMPANY LAW.

New Delhi, the 24th July 1951.

S.R.O. 1122.—In exercise of the powers conferred by sub-section (3) of section 289-B of the Indian Companies Act, 1913 (VII of 1913), the Central Government hereby prescribes the form in the Schedule hereto annexed as the form in which applications to the Central Government for approval under any of the sections referred to in sub-section (1) of the said section shall be made.

The Schedule.

STATEMENT.

[To be attached to an application for recognition of a change in the controlling interest of a company.]

1. Name of the Company together with the address of its registered office.

2. Nature of the existing controlling interest in the company.

(i) particulars about existing managing agents and/or directors;

(ii) particulars about remuneration payable to managing agents and/or directors;

(iii) particulars of commissions, allowances and fees payable to directors;

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- (iv) particulars of any other remuneration payable to managing agents and/or directors, whether in their capacity as managing agents and/or directors, or otherwise.

3. Nature of the future controlling interest in the company.

- (i) particulars about future managing agents and/or directors;
- (ii) particulars about remuneration proposed to be paid to managing agents and/or directors;
- (iii) particulars of commissions, allowances and fees proposed to be paid to directors;
- (iv) particulars of any other remuneration proposed to be paid to managing agents and/or directors, whether in their capacity managing agents and/or directors; or otherwise.

4. Extent of the interest of the existing managing agents and/or directors in the company.

5. Extent of the interest of the new managing agents and/or directors.

6. The manner in which the controlling interest of the new managing agents and/or directors in the company was acquired.—

- (i) by transfer of the shareholdings of old managing agents and/or directors;
- (ii) by purchase of shares from the open market;
- (iii) the price and other terms on which shares were transferred or purchased.

(NOTE.—All necessary details under the above heads should be given).

7. Compensation payable by the company, if any, to the outgoing managing agents and/or directors.

8. Particulars of other companies managed by the new managing agents and/or directors.

(NOTE.—Balance sheets together with the Directors' and Auditors' reports for all such companies for the previous three years should be submitted under this head).

9. Any other changes in the Articles of Association which have a bearing on the appointment of new managing agents and/or directors.

(NOTE.—5 copies of the existing Articles of Association of the company, 5 copies of the draft Articles of Association which are proposed to be substituted for the existing Articles of Association and 5 copies of the Resolution proposed to be moved at the special meeting of the Shareholders should accompany this statement.)

[No. F. 23(37)-LCL/51.]

K. G. AMBEGAOKAR
Secretary to the Government of India

NOTIFICATION.

No. S.D. 3228—C. 23-50-148, dated Bangalore, the 7th August 1951.

In exercise of the powers conferred by sub-sections (1) and (2) of Section 3 of the Essential Supplies (Temporary Powers) Act, 1946, (Central Act XXIV of 1946), and by virtue of the authority delegated to the State Government in Notification No. S.R.O. 703, dated the 4th October 1950 of the Government of India, Ministry of Food, and with the concurrence of the Central Government, His Highness the Maharaja of Mysore is pleased to make the following Order:—

1. (1) This Order may be called the Mysore Rice Mills Control Order, 1951.

(2) It applies to the whole of the State of Mysore.

(3) It shall come into force forthwith.

2. In this Order, unless there is anything repugnant in the subject or context:—

(a) "Form" means a Form appended to this Order;

(b) "Government" means the State Government;

(c) "Licensing Authority" means an Officer appointed by the Government to issue licences under this Order;

(d) "Owner" includes any agent or servant of the owner;

(e) "Power" has the same meaning as in the Factories Act, 1948 (Central Act LXIII of 1948);

(f) "Rice Mill" means a mill in which paddy is hulled and processed for conversion into rice by power and excludes a "Rice Huller".

3. No owner of a rice mill shall hull paddy or store paddy for hulling in any place in the State except under and in accordance with the conditions of a licence in Form II and a separate licence shall be taken out for each rice mill.

4. Applications for licences under this Order shall be made to the appropriate licensing authority in Form I and shall be accompanied by a treasury chellan in token of payment of the fees specified in clause 6.

5. Licences granted under this Order shall remain in force for a period of one year and shall be subject to renewal every year.

6. The fee payable for the grant of a licence under this Order shall be one hundred rupees and the fee payable for renewal of a licence shall be twenty rupees.

7. The licensing authority may cancel or suspend any licence granted or renewed under this Order before the termination of the currency of the licence, if, in his opinion, the licensee has evaded or attempted to evade, any provision of this Order or any of the conditions of the licence granted under this Order.

8. The licensing authority, or any person authorised by him in writing in this behalf, may enter upon and inspect any rice mill or any premises thereof used for the hulling or storage of any paddy, and may also seize such paddy in respect of which he has reason to believe that any provision of this Order has been, is being, or is about to be contravened.

FORM - I.

Form of Application for grant of a Licence to Mill Paddy in a Rice Mill.

1. Applicant's Name.
2. Address.
3. Address of the place where the applicant's mill is situated.
4. Whether huller type or sheller type.
5. (a) Number of revolutions per minute.
(b) Whether the applicant undertakes to regulate the mill so as to run not more than 450 revolutions per minute.
6. Whether the outside of the huller screen is closed by a blind mild steel; if not whether the applicant undertakes to close the huller screen by a blind mild steel within a month of the licence.
7. Whether the Mill is provided with a paddy separator; if not whether the applicant undertakes to provide his mill with a paddy separator within four months from the date of licence.
8. Description of storage facilities owned or controlled by the applicant.
9. Quantity of paddy milled by the applicant during each of the preceding three years.
10. Average milling capacity per month.

DECLARATION.

11. (i) I have carefully read the conditions and agree to abide by them.
- (ii) (a) I have not previously applied for such a licence in this District.
(b) I applied for such a licence in this District, on and was/ was not granted.
(c) I have applied for such a licence in the District and was/ was not granted.
- (iii) What I have stated is true to the best of my knowledge.

Place.....

Dated.....

Signature of the Applicant.

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FORM II.**Form of Licence to run a Rice Mill.**

1. Register No.....
2. Name of licensee and address.
3. Exact description of the premises.
4. Validity of the licence.

Place.....

Dated.....

Signature and Designation of the
Licensing Authority.**CONDITIONS OF THE LICENCE.**

1. The licensee shall, from the date of this licence, maintain a register in English or Kannada, showing the following particulars :—

- (a) The opening balance of paddy and rice.
- (b) Quantity of private paddy received on each day.
- (c) Quantity of private paddy hulled each day.
- (d) Quantity of private paddy or rice released each day.
- (e) Closing balance of private rice and paddy at the end of the day.

2. No licensee shall hull any private paddy or polish any private rice unless such stocks are accompanied by a permit.

3. The licensee shall render all necessary facilities at all reasonable time to such persons as may be authorised by the Licensing Authority for the inspection of the Mill or its stores and also for taking of the samples of paddy or rice for examination.

4. If the mill is not already provided with a paddy separator it shall be provided with paddy separator within four months from the date of the licence.

5. If the mill is running at more than 450 revolutions per minute, the speed should be reduced to 450 revolutions or less number of them per minute within 15 days of this licence and the speed should never exceed 450 revolutions per minute.

6. If the outlet of the huller screen is not already covered by a blind mild steel sheet, it should be so covered within one month from the date of the licence.

7. The licensee shall furnish correctly such information as may be demanded from him and shall carry out such instructions as may from time to time, be given by the Licensing Authority or any Officer authorised by him in this behalf.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

Secretary to Government,
Food and Agriculture Departments.

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NOTIFICATION.

No. C. 763—C.O. 40-50-53, dated Bangalore, 13th Aug

Ordered that the accompanying Notification 50, dated the 1st August 1951, of the Government of Commerce and Industry under the Supply and Prices Act 1950 (LXX of 1950) be republished in the following general information.

By Order of His High

N. PUTTARAO

Secretary to

Food

Departments.

GOVERNMENT OF INDIA.

MINISTRY OF COMMERCE AND INDUSTRY.

NOTIFICATION.

New Delhi, the 1st August 1951.

No. P.C. 4 (1)—50. In exercise of the powers conferred by Section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 500 dated the 2nd September 1950, namely:—

In the schedule to the said notification the word "Horlicks" shall be omitted and the following entries shall be added at the end, namely:—

	Rs.	a.	p.	
Horlicks 1 lb.	3	10	0	per bottle
Do $\frac{1}{2}$ lb.	2	0	0	Do
Do 5 lbs.	16	13	0	Do

S. K. DATTA, Deputy Secretary
to the Government of India.

PART IV

Section 2-C

RULES, ORDERS AND NOTIFICATIONS UNDER MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

No. L. 4903—Mr. 97-51-5, dated Bangalore, 13—18th August 1951.

In exercise of the powers conferred by sub-section (2) of section 8 of the Mysore Amusement Tax Act, 1932, (Mysore Act No. VIII of 1932), His Highness the Maharaja of Mysore is pleased to exempt Wrestling Matches from liability to the Entertainment Tax.

By Order of His Highness the Maharaja,

K. BALASUBRAMANYAM,

Secretary to Government,

Local Self-Government Department.

No. Fl. (B) 854—Bud. 2-51-7, dated Bangalore, 17th August 1951.

In exercise of the powers conferred by Section 8 of the Mysore Cinematograph Shows Tax Act, 1951, (Mysore Act XVI of 1951), His Highness the Maharaja of Mysore is pleased to direct that the power to exempt any Cinematograph show or class of Cinematograph shows from the payment of the Cinematograph tax conferred on the State Government by Section 5 of the said Act, shall also be exercisable by the Inspector-General of Police in Mysore, Bangalore.

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Secretary to Government,

Finance Department I/c.



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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON.

NOTIFICATION

No. L.D. 736—Legis. 3-51-17, dated Bangalore, the 10th July 1951.

Ordered that the accompanying Indian Income-tax (Amendment) Bill, 1951 (Central Bill No. 56 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

534 PART II—Section 2.

Bills and Reports of Select Committees on Bills.

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 6th June 1951 :—

*BILL No. 56 OF 1951

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows :—

1. Short title and commencement.—(1) This Act may be called the Indian Income-tax (Amendment) Act, 1951.

(2) It shall be deemed to have come into force on the 1st day of April, 1951.

2. Amendment of section 2, Act XI of 1922.—In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act),—

(a) for clause (2), the following clause shall be substituted, namely :—

“(2) ‘ assessee ’ means a person by whom income-tax, whether with or without interest, is payable; and includes a person by whom a penalty or a sum of money for compounding an offence under section 53 or any other sum is payable under this Act ;”;

(b) clause (6) shall be renumbered as clause (5A), and after clause (5A) as so renumbered, the following clause shall be inserted, namely :—

“(6) ‘ Director of Inspection ’ means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection, or an Assistant Director of Inspection ;”;

(c) in clause (6A),—

(i) in sub-clause (b), after the word “ debenture-stock ” the words “ or of deposit certificates in any form, whether with or without interest ” shall be inserted ;

(ii) in the proviso to sub-clause (c), the word “ and ” occurring at the end shall be omitted ;

(iii) after sub-clause (d), the following sub-clause shall be inserted, namely :—

“(e) any payment by a company (not being a company in which the public are substantially interested within the meaning of section 23A) of any sum (whether as representing a part of the assets of the company or otherwise) by way of advances or loans to any of its shareholders, or any payment by the company on behalf of or for the individual benefit of any of its shareholders, to the extent to which the company possesses accumulated profits, whether capitalised or not :

*The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Parliament the introduction of the Bill.

Provided that the Income-tax Officer is of opinion that the sum so paid is in effect out of the accumulated profits of the company : and

Provided further that where any such sum has been held to be a dividend by the Income-tax Officer and any dividend actually paid by the company in any subsequent year is set off against the whole or any part of such sum, the whole or part of such amount, as the case may be, to the extent to which it is so set off, shall not be included within the expression 'dividend' for any of the purposes of this Act ;

(d) for clause (6C), the following clause shall be substituted, namely :—

“(6C) ‘income’ includes—

(i) anything included in ‘dividend’ under clause (6A), or anything deemed to have been paid, credited or distributed as dividend within the meaning of this Act ;

(ii) anything which, under *Explanation 2* to sub-section (1) of section 7 is a profit received in lieu of salary for the purposes of that sub-section ;

(iii) any sum deemed to be profits under the second proviso to clause (vii) of sub-section (2) of section 10 ;

(iv) any sum in the nature of a pugree, salami, nazar or other like premium received by a person after the end of the previous year for the assessment for the year ending on the 31st day of March, 1951, on account of, or in connection with, the granting of any lease of immoveable property by him for a term of fifty years or less ;

Provided that for the purposes of assessment of any such sum such portion thereof as is equal to the amount of the sum received divided by the number of years of the lease, subject to a minimum of one-twentieth of the amount of such sum, shall be taken to be the income of the previous year in which such sum is received and of the nineteen subsequent previous years or less, as the case may be, and where before the expiry of twenty years or the term fixed, whichever is the less, the lease is terminated or the lessor dies or the lessor, being a firm or an association of persons or a company, is dissolved or wound up, as the case may be, the proportionate amount for the unexpired of the lease shall be deemed to be the income of the year in which the lease is terminated or the lessor dies or is dissolved or wound up, as the case may be ;

(v) any compensation received by a person by way of damages or otherwise on the termination of a managing agency, where the Income-tax Officer is of opinion that the party concerned in the transaction, has a controlling interest, whether direct or indirect, in the managed enterprise or in the new managing agency, or in both ;

(vi) any capital gain chargeable according to the provisions of section 12B ;

(vii) the surplus, if any, in any business of insurance carried on by a mutual insurance association computed in accordance with rule 9 in the Schedule ;

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(e) after clause (6D), the following clause shall be inserted, namely :—

“(6E) ‘Inspector of Income-tax’ means a person appointed to be an Inspector of Income-tax under section 5 ;”

(f) in clause (11),—

(i) in the proviso to sub-clause (a), after the words “profits and gains” the words, letter and brackets “or has exercised the option under clause (c)” shall be inserted ;

(iii) in sub-clause (c), after the words “option of the assessee” the words “which shall be exercised within twelve months of the setting up of the business” shall be inserted ;

(g) for sub-clause (a) of clause (12), the following sub-clause shall be substituted, namely :—

“(a) the secretary, treasurer, manager, managing agent and, where the managing agent is a firm or company, any of the partners or the principal officer thereof, as the case may be, or the agent of the authority, company, body or association or, in the case of a company being wound up, the liquidator thereof, or ;”

(h) clause (14) shall be renumbered as clause (13A), and after clause (13A) as so renumbered, the following clause shall be inserted, namely :—

“(14) ‘shareholder’ means a person holding a share in any company and registered as a member thereof in its books :

Provided that the Income-tax Officer may, in lieu of treating such person as the shareholder treat as such any other person who is either beneficially entitled for the time being to the share or who would be liable to be assessed on the dividend, if any, distributed or deemed to be distributed in respect of the share ;”.

3. Amendment of section 4, Act XI of 1922.—In section 4 of the principal Act,—

(a) in sub-section (1),—

(i) for the second proviso, the following proviso shall be substituted, namely :—

“Provided further, that in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (iii) of clause (b) as accrued or arose to him without India, shall not be included in his total income :” ;

(ii) in *Explanation 2*, for the words “wherever paid if it is earned in the taxable territories” the following shall be substituted, namely :—

“wherever paid if—

(i) it is earned in the taxable territories ; or

(ii) it is payable to a citizen of India by the Central Government or the Government of any State other than the State of Jammu and Kashmir ; or

(iii) it is paid or payable out of any superannuation fund, contributions to which have been allowed at any time as a deduction out of the income, profits and gains accruing or arising in the taxable territories.”;

(iii) after *Explanation 4*, the following *Explanation* shall be inserted, namely :—

“*Explanation 5*.—For the purposes of this Act,—

(i) income, profits and gains resulting from the manufacture and sale of goods, actually accrue or arise in full in the taxable territories if the goods are sold in the taxable territories ;

(ii) income from interest (including interest on securities) actually accrues or arises in full in the taxable territories if the money borrowed is used in the taxable territories in cash or in kind ;

(iii) income from royalties for the use of any copyright, patent, design, secret process or formula, trade mark or other like property actually accrues or arises in full in the taxable territories if such property is used, or exploited in the taxable territories ;

(iv) profits arising to a distributor or producer by way of hire, royalty or premium on cinematograph films actually accrue or arise in full in the taxable territories, if such profits are in respect of the exhibition thereof or relate to any rights of exhibition or distribution in respect thereof.”;

(b) in sub-section (3),—

(i) for clauses (i) and (ia), the following clause shall be substituted, namely :—

“(i) Subject to the provisions of clause (c) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation solely for religious or charitable purposes, where such purposes relate to anything done within the taxable territories, and, in the case of a property so held in part only for such purposes, the income applied or finally set apart for application thereto :

Provided that where such income is derived from business carried on on behalf of a religious or charitable institution, such income shall be included in the total income unless the income is applied solely to the purposes of the institution, and

(a) the business is carried on in the course of the carrying out of a primary purpose of the institution, or

(b) the work in connection with the business is mainly carried on by the beneficiaries of the institution.”;

(ii) for clause (vi), the following clause shall be substituted, namely :—

“(vi) Any special allowance, benefit or perquisite specifically granted to meet expenses necessary for the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred.”;

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(iii) in clause (xiii), in the definition of "charitable purpose", the word, letters and brackets "clause (ia)" shall be omitted, and for the words "income of a private religious trust" the words "income from property held under a trust or other legal obligation for private religious purposes" shall be substituted;

(iv) after clause (xiii), the following clauses shall be inserted, namely:—

"(xiv) Any income received by an employee of a foreign enterprise not engaged in any trade or business in the taxable territories as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year:

Provided that no such remuneration shall be allowed as a deduction in computing any income, profits and gains chargeable under this Act.

(xv) Any income received as remuneration from the Government of a foreign State by an employee of that State, who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of the foreign State, and any other income of such employee or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such employee or the members of his family are required to pay any income or social security tax to the Government of the foreign State;

(xvi) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, except where the holder of such bond is a person resident in the taxable territories;

(xvii) Interest on the 3½ per cent. Ten-year Treasury Savings Deposit Certificates issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which an assessee is entitled to deposit in such certificates."

4. Amendment of section 4A, Act XI of 1922.—In section 4A of the principal Act,—

(a) for clause (b), the following clause shall be substituted, namely:—

"(b) a Hindu undivided family, firm or other association of persons is resident in the taxable territories in any year if during that year the control and management of its affairs is not situated wholly without the taxable territories;"

(b) at the end of the section, the following *Explanation* shall be inserted, namely:—

Explanation.—An individual, a Hindu undivided family, firm or other association of persons shall be chargeable as resident in the taxable territories in respect of all his or its sources of income, notwithstanding that he or it was resident in the taxable territories in the previous year in respect of any one only of his or its sources of income, profits and gains."

5. Omission of section 4B, Act XI of 1922.—Section 4B of the principal Act shall be omitted.

6. Amendment of section 5, Act XI of 1922.—In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) Directors of Inspection,”;

(ii) after clause (d), the following clause shall be inserted, namely:—

“(e) Inspectors of Income-tax.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Central Government may appoint one or more Directors of Inspection as it thinks fit and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any income-tax authority as may be assigned to them by the Central Government.”;

(c) for sub-section (3), the following sub-sections shall be substituted, namely:—

“(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government.”;

“(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.”;

(d) in the second sentence of sub-section (5), the words “with the previous approval of the Central Board of Revenue,” shall be omitted, and for the words “Appellate Assistant Commissioner”, wherever they occur in this sentence, the words “Inspecting Assistant Commissioner” shall be substituted;

(e) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax

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Officer or other income-tax authority under whom they are appointed to work, and shall be subordinate to such officer or other authority.” ;

(f) in sub-section (7), for the words “assigned to them by” the words “in respect of cases assigned to” shall be substituted ;

(g) after sub-section (7A), the following sub-sections shall be inserted, namely :—

“(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be, may issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries.

(7C) Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.”

7. Amendment of section 5A, Act XI of 1922.—In section 5A of the principal Act,—

(a) in sub-section (2), the proviso shall be omitted ;

(b) in sub-section (3), for the words beginning with “A judicial member shall be” and ending with “the Auditors Certificates Rules, 1932 :”, the following shall be substituted, namely :—

“A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy, whether as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII of 1949) or as a registered accountant under any law formerly in force :” ;

(c) in sub-section (4), the word “judicial” shall be omitted.

8. Amendment of section 7, Act XI of 1922.—In section 7 of the principal Act,—

(i) in sub-section (1), for *Explanation 1*, the following *Explanation* shall be substituted, namely :—

‘*Explanation 1.*—For the purposes of this sub-section, “perquisites” includes—

(a) the full value of any benefits granted to the assessee by his employer, such as the provision of living or other accommodation, whether free of rent or at concessional rent, the supply of food or domestic servants free of cost or at concessional rate or the provision for any other service or supply or any other amenity of whatsoever nature ;

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(b) any sum paid by the employer in respect of any charge or other obligation which but for such payment would have been paid by the assessee ;

(c) any sum paid by the employer, whether paid directly or through a fund to which the provisions of Chapters IXA and IXB do not apply, to effect an assurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee :

Provided that where the perquisites are for the benefit of a number of employees collectively, the value of the benefit to the assessee shall be deemed to be such portion of the total cost to the employer in respect thereof as is proportionate to the benefit enjoyed by the assessee. ;

(ii) in the proviso to *Explanation 2*, after the words "liable to income-tax any payment" the words "of death-cum-retirement gratuity received under the revised Pension Rules of the Central Government, or any payment" shall be inserted, and the words "or in lieu of or in commutation of an annuity" and the words "or on his leaving the employment in connection with which the fund is established" shall be omitted ;

(iii) sub-section (2) shall be omitted.

9. Amendment of section 8, Act XI of 1922.—In section 8 of the principal Act,—

(i) for the word "receivable", wherever it occurs, the words "received or receivable" shall be substituted ; and for the words "a local authority or a company" the words and figures "a local authority, a company or a co-operative society registered for the time being under the Co-operative Societies Act, 1912 (II of 1912), or under any law of a State governing the registration of co-operative societies : " shall be substituted ;

(ii) in the first proviso, for the words and figures "not being interest on a loan issued for public subscription before the 1st day of April, 1938," the words and figures "not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf," shall be substituted.

10. Amendment of section 9, Act XI of 1922.—In section 9 of the principal Act,—

(i) in sub-section (1), the words "*bona fide*" shall be omitted and in the proviso to clause (iv), for the words and figures "not being interest on a loan issued for public subscription before the 1st day of April, 1938," the words and figures "not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf," shall be substituted, and after the proviso, as so amended, the following further proviso shall be inserted, namely :—

"Provided further that no allowance shall be made in respect of any annual charge which is created in consideration of the right of any present or past member of a Hindu undivided family to any

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maintenance allowance where no tax is payable by such member in respect of the maintenance allowance by virtue of the provisions of sub-section (1) of section 14.”;

(ii) in sub-section (2), for the words beginning with the words “ For the purposes of this section,” and ending with the words “ ten per cent. of such total income ”, the following shall be substituted, namely :—

“ For the purposes of this section, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year, and, where the property is let in consideration of a premium in addition to a monthly or annual rent and such premium is liable to be included in the income of the lessor by virtue of clause (6C) (iv) of section 2, the annual value shall be so computed as to include also such premium :

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall be determined in the same manner as if the property had been let to a tenant, so however that, where the sum so determined exceeds ten per cent. of the total income of the owner, the annual value of the property shall be deemed to be ten per cent of such total income : ”.

11. Amendment of section 10, Act XI of 1922.—In section 10 of the principal Act,—

(1) in sub-section (2),—

(i) to clause (i), the following further proviso shall be added, namely :—

“ Provided further that where in addition to such rent any premium is paid for the lease of the premises, and such premium is liable to be included in the income of the lessor by virtue of clause (6C) (iv) of section 2, or sub-section (2) of section 9, as the case may be, the rent paid shall be computed so as to include also such portion of the premium as is equal to the premium paid divided by the number of years of the lease subject to a minimum of one-twentieth of the premium for the period of the lease or for a period of 20 years, as the case may be.”;

(ii) in clause (iii),—

(a) in the proviso, for the words and figures “ not being interest on a loan issued for public subscription before the 1st day of April, 1938,” the words and figures “ not being interest on such loan issued for public subscription before the 1st day of April 1938, as the Central Government may, by general or special order, specify in this behalf,” shall be substituted ;

(b) after the proviso as so amended, the following further proviso shall be inserted, namely :—

“ Provided further that, where after the commencement of the business, profession or vocation, the assessee has made investments or acquired assets which are not for the purposes of the business, profession or vocation or the income from which is not wholly chargeable under this Act, so much of the borrowed capital as is equal to the amount

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utilised in such investments or assets shall not be deemed to be capital borrowed for the purposes of the business, profession or vocation.”;

(iii) in clause (c) of the proviso to clause (vi), for the words “where full” the words “where, in the assessment of the assessee or if the assessee is a registered firm, in the assessments of its partners, full” shall be substituted;

(iv) in clause (vii), for the words “machinery or plant”, wherever they occur, the words “machinery, plant or furniture” shall be substituted, and to the clause as so amended, the following *Explanation* shall be added at the end, namely:—

Explanation.—In this clause, the expression “sold” means transferred for a price or by way of exchange, or compulsorily acquired under any law for the time being in force, whether the transfer or acquisition was made before or after the commencement of the Indian Income-tax (Amendment) Act, 1951.”;

(v) at the end of the proviso to clause (x), the following words shall be inserted, namely:—

“any part of the amount which, in the opinion of the Income-tax officer, is excessive or unjustified being disallowed.”;

(vi) in clause (xv), for the words and brackets “(not being in the nature of capital expenditure or personal expenses of the assessee)” the words and brackets “(not being an allowance of the nature described in any of the clauses (i) to (xvi) inclusive, and not being in the nature of capital expenditure or personal expenses of the assessee)” shall be substituted;

(2) in sub-section (4),—

(i) for the word, letters and brackets “clause (xii)” the word, letters and brackets “clause (xv)” shall be substituted;

(ii) in clause (b), for the words “any partner of the firm; or” the following shall be substituted, namely:—

“any partner of the firm or by an association of persons to any member of the association, or by a Hindu undivided family to any member of the family:

Provided that interest paid to any member of the Hindu undivided family on his self-acquired and separate funds lent to the family shall not be disallowed under this clause;
or”;

(3) in sub-section (5),—

(i) after clause (b), the following clause shall be inserted, namely:—

“(c) in the case of assets acquired by the assessee by way of gift or inheritance, the “written-down-value” as in the case of the previous owner or the market value thereof whichever is the less.”;

(ii) at the end, the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this sub-section, the expression “actual cost” means the actual cost of the assets as reduced by the amounts, if any, received from any outside source for or in connection with the purchase of such assets, and any allowance in respect of any depreciation carried forward under clause (b) of the proviso to clause (vi) of sub-section (2) shall be deemed to be depreciation “actually allowed”;

(4) in sub-section (6), after the word “association” the following shall be inserted, namely:—

“which is registered under the Indian Companies Act, 1913, (VII of 1913), or is a body corporate under any other law for the time being in force in the taxable territories, shall be deemed to carry on business within the meaning of this section and shall be chargeable to tax accordingly, and any other trade, profession or similar association”;

(5) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) (a) Where the assessee has assets, transactions or undertakings which are either not connected with the business, profession or vocation under assessment or the income whereof is not wholly chargeable under this Act, the allowances admissible under this section shall be reduced in whole or in part to such extent as the Income-tax Officer considers reasonable.

(b) In computing the income, profits and gains chargeable under this section, no allowance shall be made under any provision of this Act in respect of any expenditure or part thereof, if in relation to such expenditure or part, as the case may be, an allowance has been made under some other provision of this Act.”

12. Amendment of section 12, Act XI of 1922.—In section 12 of the principal Act,—

(i) in clause (b) of the proviso to sub-section (2), for the words and figures “not being interest on a loan issued for public subscription before the 1st day of April, 1938,” the words and figures “not being interest on such loan issued for public subscription before the 1st day of April, 1938, as the Central Government may, by general or special order, specify in this behalf” shall be substituted;

(ii) after the proviso as so amended, the following further proviso shall be inserted, namely:—

“Provided further that if any premium is paid in addition to the monthly or annual rent in respect of a lease and such premium is liable to be included in the income of the lessor by virtue of clause (6C) (iv) of section 2 or sub-section (2) of section 9, as the case may be, an allowance shall be made in the like manner and to the same extent as would be made under clause (i) of sub-section (2) of section 10.”;

(iii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Where the assessee has assets, transactions or undertakings, which are either not connected with his income under the

head 'other sources' or the income whereof is not wholly chargeable under this Act, the allowances admissible under this section shall be reduced in whole or in part to such extent as the Income-tax Officer considers reasonable."

13. Insertion of new section 12AA in Act XI of 1922.—After section 12A of the principal Act, the following section shall be inserted, namely :—

"12AA. *Royalties or copyright fees for literary or artistic works.*—Where the time taken by the author of a literary or artistic work in the making thereof is—

(a) more than twelve but less than twenty-four months, or

(b) more than twenty-four months,

the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work, or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work shall, if he so claims, be allocated for purposes of assessment as hereunder—

(i) in the case referred to in clause (a), one-half of the amount of such lump sum, royalties or fees, as the income of the previous year in which the whole amount is received or receivable, and the other half, as the income of the next succeeding previous year; and

(ii) in the case referred to in clause (b), one-third of the amount of such lump sum, royalties or fees as the income of the previous year in which the whole amount is received or receivable, and one-third of the said amount as the income of each of the two next succeeding previous years.

Explanation.—For the purposes of this section, the expression 'author' includes a joint author and the expression 'lump sum' in regard to royalties or copyright fees includes an advance payment on account of such royalties or copyright fees which is not returnable."

14. Amendment of section 13, Act XI of 1922.—For the provisos to section 13 of the principal Act, the following proviso shall be substituted, namely :—

"Provided that—

(a) if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deduced therefrom, the Income-tax Officer may, after recording the reasons for his opinion, compute the income, profits and gains on such basis and in such manner as he may determine;

(b) where, in computing the income of the third year immediately preceding the previous year, an allowance has been made for any amount due but not actually paid by the assessee in that year and such amount remains unpaid at the end of the previous year, such amount shall be deemed to be income, profits and gains and to accrue or arise in the taxable territories during the previous year;

(c) where any amount which has been deemed to be income, profits and gains under clause (b) is actually paid by the assessee

subsequently, an allowance of the amount so paid shall be made from the income of the year in which it is paid ;

(d) where, at any time prior to the previous year, an allowance has been made in respect of any trading debt or loss incurred by the assessee, any amount received by him during the previous year in respect of such debt or loss by way of compensation or otherwise, shall be deemed to be the income, profits and gains and to accrue or arise in the taxable territories during the previous year."

15. Amendment of section 14, Act XI of 1922.—In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

" (1) The tax shall not be payable by an assessee in respect of any sum which he receives—

(i) as a member of a Hindu undivided family out of the total income of the family in respect of which the family itself has been or can be assessed as a unit ; or

(ii) as a member of a Hindu undivided family from the holder of an impartible estate belonging to the family, out of the total income of the holder of the estate where such income has been or can be assessed as a unit."

(b) in clause (c) of sub-section (2), for the words and letter " Part B State " the words " the State of Jammu and Kashmir " shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1950.

16. Amendment of section 15, Act XI of 1922.—In section 15 of the principal Act,—

(a) in sub-section (1), after the words " on the life of a wife or husband of the assessee ", where they occur for the second time, the words " which in conjunction with any other benefit secures a capital sum on death " shall be inserted ; and to the said sub-section, the following *Explanation* shall be added, namely :—

" *Explanation.*—For the purposes of this sub-section, any sum paid by the employer of the assessee to effect an insurance on the life of the assessee or in respect of a contract for an annuity on the life of the assessee, which is included in his total income as a perquisite under *Explanation I* to sub-section (1) of section 7, shall be deemed to be a sum paid by the assessee."

(b) in sub-section (2A), the words " other than a contract for a deferred annuity " shall be omitted.

17. Amendment of section 15C, Act XI of 1922.—In section 15C of the principal Act,—

(a) in sub-section (2),—

(i) in clause (ii), for the word " three " the word " six " shall be substituted ;

(ii) in clause (iii), for the word " fifty " the word " twenty-five " shall be substituted ;

(b) for sub-section (6), the following sub-section shall be substituted, namely :—

“(6) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding.”

18. Amendment of section 16, Act XI of 1922.—In section 16 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words, figures and letters “section 15B and section 15C” the words, figures, letters and brackets “section 15B, section 15C and sub-section (3) or sub-section (4) of section 25” shall be inserted ;

(ii) in clause (b) after the proviso, the following further proviso shall be inserted, namely :—

“Provided further that where any such partner pays interest in respect of the capital borrowed by him and invested in the business, profession or vocation of the firm or where according to the terms of the partnership he is required to work in the firm but engages a person to work therein on his behalf, the interest or salary paid by him shall be allowed as a deduction from his share of the firm so computed ;” ;

(iii) in clause (c), after the words “income of the transferor” the following shall be inserted, namely :—

“and all transactions in respect of the property or assets which have been the subject of such settlement, disposition or transfer, and all such property or assets shall, for the purposes of this clause, be deemed to be the transactions, property or assets of the settlor, disponor or transferor, as the case may be :” ;

(b) in sub-section (2), after the words “an assessee” the words “who is a shareholder in a company” shall be inserted ;

(c) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) In computing the total income of any individual for the purpose of assessment, there shall be included—

(a) so much of the income of a spouse or minor child of such individual or of the minor child of a brother of such individual as arises directly or indirectly—

(i) from the membership of the spouse in a firm of which such individual is a partner ;

(ii) from the admission of any such minor to the benefits of partnership in a firm of which such individual or the spouse of such individual is a partner ;

(iii) from any settlement or disposition made by such individual in favour of the spouse or from assets transferred directly or indirectly by such individual to the spouse otherwise than for adequate consideration or in connection with an agreement to live apart ;

(iv) from any settlement or disposition made by such individual in favour of such minor or from assets transferred directly or indirectly by such individual to any such minor, not being a married girl, otherwise than for adequate consideration; and

(b) so much of the income of any person or association of persons as arises from any settlement or disposition made by such individual in favour of the person or association or from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of the spouse or minor child of such individual or for the benefit of a minor child of such individual's brother or for the benefit of all or any two or more of them.

Explanation.—For the purposes of this sub-section, the word 'child' includes adopted child, foster-child, step-child, illegitimate child and grandchild."

19. Amendment of section 18, Act XI of 1922.—In section 18 of the principal Act,—

(a) in sub-section (2B), for the words "at the rate or rates applicable to the estimated income of the assessee under this head", the following shall be substituted, namely:—

"on the estimated income of the assessee under this head in accordance with the provisions of clause (b) of sub-section (1) of section 17:—

Provided that where—

(i) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(ii) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order, the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be."

(b) sub-section (3A) shall be renumbered as sub-section (3B), and before that section as so renumbered, the following sub-section shall be inserted, namely:—

'(3A) The person responsible for paying any income chargeable under the head "Interest on securities" to a person whom he has no reason to believe to be resident in the taxable territories, shall, at the time of payment, deduct super-tax on the amount of such interest—

(i) if such person is a company, at the rate applicable to a company,

(ii) if such person is not a company, in accordance with the provisions of clause (b) of sub-section (1) of section 17:

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Provided that where such person is not a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).';

(c) in sub-section (3B) as so renumbered, for the words commencing with "income-tax thereon as an agent, deduct income-tax at the maximum rate" and ending with the words "or deduct the tax at such less rate, as the case may be:" the following shall be substituted, namely:—

"income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (b) of sub-section (1) section 17, as the case may be:—

Provided that where the person not so resident is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (2B):";

(d) the existing sub-sections (3B) and (3C) shall be omitted;

(e) for sub-sections (3D) and (3E), the following sub-sections shall be substituted, namely:—

"(3D) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (3B).

(3E) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (2) of section 16—

(i) if the shareholder is a company, at the rate applicable to a company,

(ii) if the shareholder is a person other than a company, in accordance with the provisions of clause (b) of sub-section (1) of section 17:

Provided that in the case of a shareholder other than a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).";

(f) in sub-section (5), after the words "Any deduction made" the words "and paid to the account of the Central Government" shall be inserted; after the words "given to him therefor" the words "on the production of the certificate furnished under sub-section (9) of

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section 20, as the case may be," shall be inserted, and after the second proviso, the following further proviso shall be inserted, namely :—

" Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income."

(g) in sub-section (7), for the words, brackets, figures and letters "sub-section (3D) and (3E)" the word, brackets, figure and letter "sub-section (3E)" shall be substituted;

(h) in sub-section (9), the brackets, figures and letters "(3C), (3D)" shall be omitted;

(i) after sub-section (9), the following sub-section shall be inserted, namely :—

" (10) In this section, the expression 'person responsible for paying' shall mean and shall be deemed always to have meant—

(i) in the case of payments of income chargeable under the head 'Salaries' other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself or the principal officer thereof;

(ii) in the case of payments of income chargeable under the head 'Interest of securities', other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, company, or the co-operative society concerned or the principal officer thereof."

20. Amendment of section 18A, Act XI of 1922.—In section 18A of principal Act,—

(a) in sub-section (1) (a), for the words "if that total income exceeded six thousand rupees" the words "if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees" shall be substituted;

(b) in sub-section (3), for the words "is likely to exceed six thousand rupees," the words "is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees," shall be substituted;

(c) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) If at any time during a financial year, the Income-tax Officer has reason to believe that—

(a) the tax payable by any person under this section in that year on his income in respect of the period which would be the previous year or part thereof for the purposes of assessment for the year next following is likely to be greater than—

(i) the tax that he has been, or would have been, required to pay under sub-section (1) on the basis of his last completed assessment, or

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(ii) the estimate of the tax payable by him under sub-section (3), or

(b) any person who should have sent an estimate of the tax payable by him under sub-section (3), has not sent any such estimate,

the Income-tax Officer may require such person to furnish a statement of his income for the period which would be the whole of the previous year or part thereof for the purposes of the assessment for the year next following, and may also require him to produce such account books or other information as he may require in respect of that period to enable him to determine the tax payable by such person under this section :

Provided that if any person does not furnish a statement of his income or does not produce the account books or other information required under this sub-section, the Income-tax Officer shall determine the tax payable by such person to the best of his judgment and may further direct that such person shall pay, by way of penalty, a sum not exceeding one-fifth of the tax so determined."

21. Insertion of new section 20B in Act XI of 1922.—After section 20A of the principal Act, the following section shall be inserted, namely :—

" 20B. *Supply of information regarding interest on securities and dividends collected on behalf of other persons.*—(1) Any person who claims that he is himself not liable to be assessed in respect of any interest on securities or dividends received or collected by him during any financial year shall, on or before the 15th day of June next after the close of the financial year to which the receipt or collection relates, furnish to the prescribed Income-tax Officer a return in the prescribed form and verified in the prescribed manner showing the names and addresses of all persons on whose behalf interest on securities or dividend was so collected or received, and forward therewith the relevant certificate under sub-section (9) of section 18 or section 20, as the case may be.

(2) No person referred to under sub-section (1) shall be entitled to claim that he is not himself liable to be assessed on the interest on securities or dividends unless he has furnished the returns and certificates required in respect thereof."

22. Amendment of section 21, Act XI of 1922.—After clause (b) of section 21 of the principal Act, the following clause shall be inserted, namely :—

" (bb) the value of any benefit or perquisite granted to any person and the amount of any special allowance specifically granted to meet expenses necessary in the performance of the duties of an office or employment of profit ; "

23. Amendment of section 22, Act XI of 1922.—In section 22 of the principal Act,—

(a) in sub-section (1), for the words "exceeded the maximum amount which is not chargeable to income-tax" the words "did not fall short of the maximum amount not chargeable to income-tax by more than five hundred rupees" shall be substituted ;

(b) in sub-section (2), for the words "whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax," the words "whose total income in the Income-tax Officer's opinion, does not fall short of the maximum amount not chargeable to income-tax by more than five hundred rupees," shall be substituted;

(c) after sub-section (2), the following sub-sections shall be inserted, namely :—

"(2A) If any person, who has not been served with a notice under sub-section (2), has sustained a loss of profits or gains in any year under the head 'Profits and gains of business, profession or vocation', and such loss or any part thereof would ordinarily have been carried forward under sub-section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1), all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1).

(2B) The prescribed form of returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, whose total income exceeds the maximum amount not liable to super-tax, be accompanied by statements of accounts including a Balance Sheet, Profit and Loss Account and Trading Accounts duly audited by a chartered accountant."

(d) in sub-section (4), for the words "such accounts or documents as the Income-tax officer may require", the following words shall be substituted, namely :—

"such accounts or documents, including accounts relating to any year subsequent to the previous year, as the Income-tax Officer may require, or to furnish in writing and verified in the prescribed manner, information in such form and on such points or matters as the Income-tax Officer may require :"

24. Amendment of section 23, Act XI of 1922.—In section 23 of the principal Act,—

(a) in sub-section (2), for the words "without requiring" the words "without further information or without requiring" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2A) Where any fact, account or document, is relied upon by the assessee in support of his return, the onus of proving the correctness of such fact, account or document and of proving the quantum of his total income or total world income, shall be on the assessee."

25. Amendment of section 23A, Act XI of 1922.—In section 23A of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends, if any, by any company up to the end of the twelfth month after the end of that previous year, are less than sixty per cent of the assessable income of the company of that previous year, as reduced by—

(a) the amount of income-tax and super-tax payable by the company in respect thereof,

(b) the amount of any tax levied by the Government of a State or by a local authority, whether such tax is wholly or partly an admissible deduction under section 9 or section 10 or not, and

(c) in the case of a banking company, the amount transferred to a reserve fund under section 17 of the Banking Companies Act, 1949,

he may, unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of any dividend or a larger dividend than that declared would be unreasonable, make with the previous approval of the Inspecting Assistant Commissioner an order in writing that the whole of the undistributed portion of the assessable income of the company of that previous year as computed for income-tax purposes and reduced by the amounts aforesaid shall be deemed to have been distributed as dividends amongst the shareholders as at the date of any general meeting which has been held within the twelve months aforesaid, or as at the end of the aforesaid period of twelve months whichever is earlier, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income :

Provided that in the case of a company whose income is derived mainly from investments or from dealings in investments, and in the case of any other company, if its reserves representing accumulations of past profits which have not been the subject of an order under this sub-section exceed the paid up capital of the company, together with any loan capital which is the property of the shareholders, or the actual cost of the fixed assets of the company, whichever of these is greater, this section shall apply as if instead of the words ‘sixty per cent’ and ‘fifty-five per cent’ the words ‘one hundred per cent’ and ‘ninety per cent’ respectively had been substituted :

Provided further that where the company has distributed not less than fifty-five per cent of its assessable income, as reduced by the amounts aforesaid, the Inspecting Assistant Commissioner of Income-tax shall not give his approval to any order proposed to be passed by the Income-tax Officer under this section, unless after service of a notice from the Inspecting Assistant Commissioner, the company fails to make within two months of the service of such

notice a further distribution of its profits and gains so as to bring up the total distribution to not less than sixty per cent of the assessable income of the company of the previous year concerned, as reduced by the amounts as aforesaid :

Provided further that this sub-section shall not apply to any company in which the public are substantially interested or to a subsidiary company of such a company if the whole of the share capital of such subsidiary company has been held by the parent company or by the nominees thereof at the end of that previous year.

Explanation.—For the purposes of this sub-section, a company shall be deemed to be a company in which the public are substantially interested only if at any time during that previous year its shares have been offered for sale in a recognised stock exchange in the taxable territories and it is neither a private company within the meaning of the Indian Companies Act, 1913 (VII of 1913), nor a company in which shares carrying more than fifty per cent of the total voting power have, at any time during that previous year, been held or controlled by less than six persons ” ;

(b) in sub-sections (3) and (4), for the word “ member ”, wherever it occurs, the word “ shareholder ” shall be substituted ;

(c) after sub-section (5), the following sub-sections shall be inserted, namely :—

“(6) Any notice required under the provisions of this section may, where the company is in liquidation, be served on the liquidator, and the liquidator shall be responsible for doing all matters or things required to be done by or on behalf of the company and for the due payment of any tax payable by or recoverable from the company under the provisions of this section.

(7) In the case of a company which is not a company in which the public are substantially interested within the meaning of sub-section (1), the accumulated profits of the company of the period from the end of the last previous year for which it has made a return of its total income, to the date on which an order or resolution for winding it up is made shall, for the purposes of assessment of its shareholders, be deemed to have been distributed as dividend amongst the shareholders on the date of that order or resolution, and the provisions of sub-sections (3), (4), (5) and (6) shall apply in the like manner and to the same extent as they apply in the case of an order under sub-section (1).”

26. Amendment of section 24, Act XI of 1922.—In section 24 of the principal Act,—

(a) in sub-section (1), for the first proviso, the following provisos shall be substituted, namely :—

“ Provided that in computing the income, profits and gains chargeable under any head or the loss of profits and gains falling under any head, so much of any loss as would but for the loss have accrued or arisen within the State of Jammu and Kashmir, shall not be taken into account except to the extent of the

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amount of income, profits and gains, if any, which would be exempt under the provisions of clause (c) of sub-section (2) of section 14:

Provided further that in computing the profits and gains chargeable under the head "Profits and gains of business, profession or vocation", any loss sustained in a business consisting of speculative transactions shall not be taken into account except to the extent of the amount of profits and gains, if any, in any other business consisting of speculative transactions."

(b) in sub-section (2),—

(i) for the words "under the head 'Profits and gains of business, profession or vocation,'" the words "in any business, profession or vocation" shall be substituted;

(ii) in clause (a) of the proviso, for the words "India, but outside the taxable territories" the words "the State of Jammu and Kashmir" shall be substituted;

(iii) after clause (e) of the proviso, the following clauses shall be inserted, namely:—

"(f) where the assessee is a company which is not resident in the taxable territories and the loss carried forward is a loss of profits and gains which arose without the taxable territories in any year in which the company was assessed as a resident company under sub-clause (b) of clause (c) of section 4A, such loss shall not be allowed to be set off against the profits and gains from the same business arising in the taxable territories except to the extent to which the profits and gains arising without the taxable territories have, as reduced by the amount of such losses, if any, allowed previously, been assessed in the past;

(g) where there are two or more business other than a business consisting of speculative transactions and the losses sustained therein cannot be wholly set off under sub-section (1), the amount of loss which has not been so set off shall, for the purposes of this sub-section, be allocated to each such business in the same proportion as the loss sustained in each such business bears to the aggregate of the losses sustained in all such businesses."

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) For the purposes of this Act,—

(i) life insurance business shall be deemed to be a distinct and separate business from any other kind of insurance business; and

(ii) where the speculative transactions carried on are of such a nature as to constitute a business, the business shall be deemed to be distinct and separate from any other business.

(iii) a speculative transaction means a transaction in which a contract for purchase and sale of any commodity including stocks and shares is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

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Provided that a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him shall not be deemed to be a speculative transaction."

27. Amendment of section 24A, Act XI of 1922.—In sub-section (1) of section 24A of the principal Act, for the words "has been asseessed in his hands" the words "has been fully assessed in his hands" shall be substituted.

28. Amendment of section 25, Act XI of 1922.—(1) In section 25 of the principal Act,—

(a) in sub-section (1), for the words "any year, an assessment may be made in that year" the words "any financial year, an assessment may be made at the rates in force in that financial year" shall be substituted; and to the said sub-section the following proviso shall be added, namely:—

"Provided that where such period exceeds the period of the previous year relating to the assessment year following that financial year, a separate assessment may be made on the income, profits and gains of such previous year and another assessment on the income, profits and gains of the remaining period";

(b) in sub-section (3), after the words "is discontinued", the words "in the course of a previous year" shall be inserted, and for the words "the previous year", wherever they occur, the words "the immediately preceding previous year" shall be substituted;

(c) in sub-section (4), after the words "is succeeded" the words "in the course of a previous year" shall be inserted, and for the words "the previous year" wherever they occur, the words "the immediately preceding previous year" shall be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) The benefit of sub-section (3) and sub-section (4) shall not be given to any person unless such person has, before the expiry of one year from the date on which the business, profession or vocation was discontinued or succeeded to, as the case may be, given notice of such discontinuance or succession to the Income-tax Officer concerned."

(2) The amendments made by clauses (a), (b) and (c) of sub-section (1) shall be given effect to as if they had been originally enacted.

29. Insertion of new section 25B, Act XI of 1922.—After section 25A of the principal Act, the following section shall be inserted, namely:—

"25B. *Liquidators, etc.*—(1) Every person, in this section referred to as the "trustee",—

(a) who is the liquidator of any company which is being wound up under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company ; or

(c) who is an agent of a person not resident in the taxable territories, and has been required by his non-resident principal to wind up the business or to realise the assets of the principal,

shall, within thirty days after he has become such trustee, give notice of his appointment as such to the Income-tax Officer who is entitled to assess the income of the company or of the non-resident person.

(2) The Income-tax Officer shall, after making such inquiries or calling for such information as he may deem fit with respect to the assets of the company or the properties in the hands of the trustee, notify to the trustee the amount which in the opinion of the Income-tax Officer would be sufficient to provide for any tax which then is or is likely thereafter to become payable by the company or the principal or the agent of the principal, as the case may be.

(3) The trustee—

(a) shall not without the leave of the Income-tax Officer part with any of the assets of the company or of the principal ;

(b) shall set aside, out of the assets coming into his possession, assets to the value of the amount so notified, or the whole of such assets if they are of a value equal to or less than that amount ; and

(c) shall, to the extent of the value of the assets which he is so required as aforesaid to set aside, be personally liable to pay the tax on behalf of the company or the non-resident person as the case may be.

(4) Where there is more than one trustee, the obligations and liabilities attaching to the trustee under this section shall attach to all the trustees jointly and severally.

(5) The amount notified by the Income-tax Officer under sub-section (2) shall not be called in question in any proceeding before any court under any law, and the provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

30. Amendment of section 26A, Act XI of 1922.—After sub-section (2) of section 26A of the principal Act, the following sub-section shall be inserted, namely :—

“(3) If the particulars contained in the application made under sub-section (2) are found to be incorrect, the registration granted to the firm under sub-section (1) for any year shall be cancelled and the firm shall, subject to the provisions of section 33B or section 34, be assessed or reassessed to tax as if it were an unregistered firm, association of persons or individual as the case may be.”

31. Omission of section 27, Act XI of 1922.—Section 27 of the principal Act shall be omitted.

32. Amendment of section 28, Act XI of 1922.—In section 28 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) If the Income-tax Officer, the Appellate or inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, whether or not such

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proceedings relate to the assessment in which any default or concealment has occurred, is satisfied that any person has without reasonable cause failed to comply or has without reasonable cause failed to comply within the time allowed, if any, in that behalf, with the requirements of any notice under section 22 or section 23 or section 34 or has concealed the particulars of his income or has negligently or deliberately furnished any inaccurate or incomplete particulars in his return of total income or in any information furnished in compliance with the notice under sub-section (4) of section 22 or in any evidence furnished under section 23, he or it may direct that such person shall, in addition to the amount of income-tax and super-tax, on his total income (which amount in this sub-section is referred to as "such sum") pay by way of penalty an amount computed as follows :—

(a) where the return of total income required by the notice under sub-section (1) of section (22) is not furnished within the time allowed by such notice but is furnished before the commencement of the next financial year, the penalty payable shall be an amount not exceeding three hundred rupees or one-fourth of such sum whichever is the less :

Provided that if a return is furnished before the commencement of the next financial year and before the issue of a notice under sub-section (2) of section 22, there shall be no penalty ;

(b) where the return of total income required by the notice under sub-section (1) of section 22 is not furnished or is furnished after the commencement of the next financial year, or where the return of total income required by the notice under sub-section (2) of section 22 or section 34 is not furnished or is furnished after the time allowed by such notice, the penalty payable shall be an amount not exceeding such sum ;

(c) where the return of total income required by the notice under sub-section (2) of section 22 or section 34 has not been furnished and a notice under sub-section (4) of section 22 has also not been complied with within the time allowed by the notice, the penalty payable shall be an amount not exceeding one and a half times such sum ;

(d) where the return of total income has been furnished, but any notice under sub-section (4) of section 22 or sub-section (2) or sub-section (3) of section 23 has not been complied with within the time allowed by the notice, the penalty payable shall be an amount not exceeding the difference between such sum and the amount of income-tax and super-tax, if any, which would have been payable had the income as returned, been accepted as the correct income ;

(e) where a return of total income furnished is incorrect or incomplete in any material particulars, and such incorrectness or incompleteness is due to negligence, the penalty payable shall be an amount not exceeding one-half but not less than one-fourth of the amount of the difference between such sum and the amount of income-tax and super-tax, if any, which would have been payable had the income as returned been accepted as the correct income ;

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(f) where a return of total income or any information or evidence furnished as aforesaid is found to be deliberately incorrect or incomplete in any material particulars or where any particulars of income have been concealed, the penalty payable shall be an amount not exceeding one and a half times but not less than the difference between such sum and the income-tax and super-tax, if any, which would have been payable had the income as returned been accepted as the correct income.

Provided that—

(i) the aggregate of the amounts of penalties imposable under this sub-section shall not exceed one and half times such sum in any case ;

(ii) where the assessment in respect of which penalty is imposable is for a year which is outside the limit of time specified in section 33B, or section 34, as the case may be, the expression "such sum" shall for the purposes of computing the penalty, mean income-tax and super-tax which would have been payable on the true total income had it been assessed at the proper time, and the amount of the penalty shall not, in any case be less than the amount of income-tax and super-tax, which has been avoided by such person for that year ;

(iii) no penalty for failure to furnish the return of his total income shall be imposed on an assessee whose total income does not exceed the maximum amount not chargeable to income-tax in his case by more than one thousand rupees, unless he has been served with a notice under sub-section (2) of section 22 ;

(iv) where a person has failed to comply with the notice under sub-section (2) of section 22 or section 34, and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five rupees ;

(v) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in the taxable territories for failure to furnish the return required under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him ;

(vi) where the person liable to penalty is a registered firm whose registration in consequence of proceedings under this section has not been cancelled, or is an unregistered firm treated under clause (b) of sub-section (5) of section 23 as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, the amount of penalty payable by the registered firm shall be that amount which would have been payable had such firm been assessed as an unregistered firm. ;

(b) in sub-section (2),—

(i) for the words "Appellate Assistant Commissioner or the Appellate Tribunal" the words "Appellate or Inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal" shall be substituted ;

(ii) after the words "proceedings under this Act" the words "whether or not such proceedings relate to the assessment of which the distribution of profits is in question" shall be inserted ; and

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(iii) for the words "he or it may direct" the words "he or it may, if the registration or the firm has not been cancelled, direct shall be substituted ;

(c) after sub-section (2), the following sub-section shall be inserted namely :—

"(2A. If the Income-tax Officer the Appellate or inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal in the course of any proceedings under this Act, whether or not such proceeding relate to the assessment in which the abetment occurred, is satisfied that any person has knowingly or wilfully abetted another person to commit a default or to do anything which has rendered that other person liable to any penalty under sub-section (1) or sub-section (2) he or it may direct that such first-mentioned person shall without prejudice to any action that may be taken against him under this Act or under any other law, pay a penalty of an amount not exceeding the amount of penalty which has been imposed on that other person or five thousand rupees whichever is the less :

Provided that no such penalty shall be imposed unless such first mentioned person has been heard, or has been given a reasonable opportunity of being heard :

Provided further that where the first mentioned person is a member of a firm constituted for the exercise of a profession or vocation, each member of the firm shall be jointly and severally liable for the penalty levied under this section."

(d) in sub-section (5) for the words, brackets and figures, "Appellate Assistant Commissioner or the Appellate Tribunal on making an order under sub-section (1) or sub-section (2)" the following shall be substituted, namely :—

"Appellate or inspecting Assistant Commissioner, the Commissioner or the Appellate Tribunal on making an order under sub-section (1), sub-section (2) or sub-section (2-A)";

(e) after sub-section (6), the following sub-section shall be inserted, namely :—

"(7) Where a penalty under sub-section (1), sub-section (2) or sub-section (2A) has been imposed upon any person, the Income-tax Officer may, with the previous sanction of the Commissioner, publish the name, address and other particulars relating to that person or his affairs in such manner as may be specified by the Central Board of Revenue."

33. Amendment of section 30, Act XI of 1922.—In section 30 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Any assessee —

(i) objecting to the amount of income assessed or the amount of tax determined, as the case may be, under section 23, or to the amount of loss computed under section 24, or

(ii) objecting to the cancellation by an Income-tax Officer of the registration of a firm under sub-section (4) of section 23, or to a refusal to register a firm under sub-section (4) of that section or section 26A, or

(iii) objecting to an order made by an Income-tax Officer under sub-section (2) of section 25 or section 25A or sub-section (2) of section 26 or section 28, or

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(iv) objecting to an order of rectification or of refusal to rectify made by an Income-tax Officer under section 35, or

(v) objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) or section 44F or sub-section (1) of section 46, or

(vi) objecting to a refusal by an Income-tax Officer to allow a claim to a refund under section 48 or section 49F, or objecting to the amount of the refund allowed by an Income-tax Officer under any of those sections, or

(vii) denying his liability to be assessed under this Act, or

(viii) being a company, objecting to an order made by the Income-tax Officer under sub-section (1) of section 23A, may appeal to the Appellate Assistant Commissioner against the assessment, refusal or order as the case may be :

Provided that no appeal shall lie—

(a) against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of the Income-tax Officer in pursuance of a direction given by the Commissioner under sub-section (5) of section 5 ;

(b) against an order under sub-section (1) of section 46, unless the tax has been paid within the time specified in the notice of demand for penalty ;

(c) against any order in respect of an assessment, if, on an application made by the Income-tax Officer in this behalf, the Appellate Assistant Commissioner is of the opinion that the assessee has not paid such amount of the tax due or furnished such security or banker's guarantee for payment of tax as appears to him to be reasonable in the circumstances :

Provided further that where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may, on behalf of the firm and after obtaining the signatures of the other partners to the petition, appeal to the Appellate Assistant Commissioner against any order of the Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, and the result of such appeal shall be binding on all the partners, and no partner shall, in any appeal relating to the assessment of his own total income, be entitled to raise any question in respect of matters determined by any order of the Income-tax Officer or by the Appellate Assistant Commissioner as a result of any appeal under this proviso.” ;

(b) in sub-section (1A), the brackets, figures, letters and word “ (3A) ” and “ or (3C) ” shall be omitted ;

(c) in sub-section (2), for the words, figures and letter “ to register a firm under section 26A or of the date of the refusal to make a fresh assessment under section 27,” the following shall be substituted, namely :—

“ or of the intimation of the order refusing to register, or cancelling the registration of a firm under sub-section (4) of, section 23 or section 26A.”

34. Amendment of section 31, Act XI of 1922.—In section 31 of the principal Act,—

(a) in sub-section (2A), after the words “not wilful or unreasonable” the following shall be inserted, namely :—

“and the consideration of that ground does not involve the production of any evidence contrary to the provisions contained in sub-section (2B).”;

(b) after sub-section (2A), the following sub-section shall be inserted, namely :—

“(2B) The Appellate Assistant Commissioner shall not, at the instance of the appellant, allow any evidence, whether oral or documentary, to be produced, which was not produced before the Income-tax Officer notwithstanding that the appellant was required specifically so to do by the Income-tax Officer, acting under this Act or which the appellant could with due diligence have produced before the Income-tax Officer but did not so produce in response to a notice under sub-section (2) of section 23 :

Provided that the Appellate Assistant Commissioner may, after recording his reasons for so doing, allow to be produced any additional evidence which may be necessary to enable him to dispose of the appeal, including the passing of an order therein enhancing an assessment.”;

(c) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) In disposing of an appeal, the Appellate Assistant Commissioner may—

(i) in the case of an order of assessment—

confirm, reduce, enhance, amend or set aside the assessment, or set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer may think fit or the Appellate Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment ;

(ii) in the case of an appeal against a computation of loss under section 24—

confirm or vary such computation ;

(iii) in the case of an order cancelling or refusing the registration of a firm under sub-section (4) of section 23 or section 26A—

confirm such order or cancel it and direct the Income-tax Officer to register the firm and to assess the partners separately on their respective shares ;

(iv) in the case of an order under sub-section (2) of section 25 or sub-section (1) of section 23A, or sub-section (2) of section 26 or section 48 or section 49F—

confirm, cancel or vary such order, and, in the case of an appeal against an order under sub-section (2) of section 26, direct a consequential modification of the assessments of the predecessors and the successors concerned ;

(v) in the case of an order under sub-section (1) of section 25A,

confirm such order or cancel it and either direct the Income-tax Officer to make further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25A ;

(vi) in the case of an order under section 28, or sub-section (6) of section 44E, or sub-section (5) of section 44F or sub-section (1) of section 46—

confirm or cancel such order or vary it so as either to enhance or reduce the penalty :

(vii) in the case of an appeal under sub-section (1A) of section 30—

decide that the person is or is not liable to make the deduction and in the latter case direct the refund of the sum paid under sub-section (6) of section 18 :

Provided that the Appellate Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement :

Provided further that at the hearing of any appeal against an order of an Income-tax Officer, the Income-tax Officer shall have the right to be heard either in person or by a representative or to submit in duplicate a brief statement in writing of his arguments or objections a copy of which shall be furnished to the appellant at the time of hearing of the appeal.” ;

(d) for sub-section (5), the following sub-section shall be substituted, namely :—

“(5) Every order passed on appeal by the Appellate Assistant Commissioner shall contain a clear specification of the relief, if any, granted and the precise effect thereof on the assessment or on the order appealed against, and a copy of the order shall be sent to the assessee and the Commissioner.”

35. Amendment of section 33, Act XI of 1922.—In section 33 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely :—

“33. *Appeals to Appellate Tribunal.*—(1) Any assessee objecting to an order passed by an Appellate Assistant Commissioner under section 28 or section 31 or to an order passed by an Inspecting Assistant Commissioner or Commissioner under section 28 may appeal to the Appellate Tribunal within sixty days of the date on which a copy of the order is received by him.

(1A) Any assessee objecting to any such order as is referred to in sub-section (1) of section 30, passed by an Inspecting Assistant Commissioner when exercising the powers of an Income-tax Officer, may appeal to the Appellate Tribunal within the time specified in sub-section (2) of that section; and the provisions of sections 30 and 31 shall, so far as may be, apply to such appeal as they apply to an appeal to the Appellate Assistant Commissioner from an order of the Income-tax Officer.” ;

(b) in sub-section (2), for the words “ the order is communicated to the Commissioner by ” the words “ a copy of the order is received by the Commissioner from ” shall be substituted ;

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(c) sub-section (2A) shall be renumbered as sub-section (2B) and before the sub-section as so renumbered, the following sub-section shall be inserted, namely :—

“(2A) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the service upon him of the notice, file a memorandum of cross objections against any part of the order of the Appellate Assistant Commissioner and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time under sub-section (1) or sub-section (2), as the case may be.”;

(d) in sub-section (2B) as so renumbered, after the words “admit an appeal” the words, figure, letter and brackets “other than an appeal under sub-section (1A)” shall be inserted;

(e) in sub-section (4), for the words “and shall communicate any such orders to the assessee and to the Commissioner” the words, figures, letter and brackets “and shall send a copy of any such orders to the assessee and to the Commissioner, and the provisions of sub-sections (2B), (3) and (5) of section 31 shall, so far as may be, apply to the orders and proceedings of the Appellate Tribunal” shall be substituted.

36. Amendment of section 34, Act XI of 1922.—In the second proviso to sub-section (3) of section 34 of the principal Act, for the words and figures “to a reassessment made under section 27 or in pursuance of” the words “to an assessment or reassessment made in consequence of, or to give effect to any finding or direction contained in” shall be substituted.

37. Amendment of section 35, Act XI of 1922.—In section 35 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely :—

“(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or reassessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.

(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or other proceeding [whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1951], and in consequence thereof it is necessary to recompute the total income of the assessee chargeable to income-tax, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years referred to in that sub-section being computed from the date of the

order modifying the assessment of such excess profits tax or business profits tax.

Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm.”

38. Substitution of new sections for section 37 in Act XI of 1922.—For section 37 of the principal Act, the following sections shall be substituted, namely :—

“ 37. *Power to take evidence on oath, etc.*—(1) Subject to any rules made in this behalf by the Central Government by notification in the official Gazette, every income-tax authority shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of documents ;

(c) issuing commissions for the examination of witnesses.

(2) Any income-tax authority may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it in any proceeding under this Act.

(3) Any proceeding before an income-tax authority or Appellate Tribunal under this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and every such authority shall be deemed to be a revenue court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

37A. Power to enter premises, etc.—(1) Any income-tax authority not below the rank of Assistant Commissioner and, if specially authorised in this behalf by any other income-tax authority, an Income-tax Officer may—

(i) enter any building or place whether belonging to the person liable to assessment or otherwise, if it or he has reason to believe that any books of account or other documents of any such person may be found therein ;

(ii) seize any such books of account or documents or place marks of identification thereon or make extracts or copies therefrom ;

(iii) make a note or an inventory of any other article or thing found in the course of the search which in its or his opinion may be useful for or relevant to any of the purposes of this Act,

and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to searches, so far as may be, shall apply to searches made under the authority of this sub-section :

Provided that where in the opinion of an Income-tax Officer of Class I service it is not practicable to obtain the special authorisation of any other income-tax authority before proceeding to act under this section, he may exercise any of the powers given by this sub-section without such previous authorisation, and where he does so, he shall forthwith make a report thereof in writing to the Inspecting Assistant Commissioner stating the reasons which called for the exercise of such powers without obtaining such previous authorisation.

(2) Notwithstanding anything contained in sub-section (1) but without prejudice to the provisions contained therein, it shall be lawful for any income-tax authority to enter at all reasonable times any building or place belonging to or occupied by any person liable, or believed by it to be liable to assessment for the purpose of making any inquiry which, in the opinion of that authority, would be useful for the purposes of this Act, and the authority may examine the books of account or other documents of such person and place marks of identification thereon or make extracts or copies therefrom.

(3) Notwithstanding anything in any other law to the contrary, every person shall be bound—

(a) to produce to the income-tax authority such books of account or other documents in his charge or custody as he may be required to produce;

(b) to give to the authority any information in his possession in respect of the books of account or other documents which may be required;

(c) to prepare such statements for, or furnish such information to, the authority as may be required;

(d) to answer all questions which may be put to him by the authority."

39. Amendment of section 38, Act XI of 1922.—Section 38 of the principal Act shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered,—

(a) for clause (1), the following clause shall be substituted, namely :—

"(1) require any Hindu undivided family, firm, or association of persons to furnish him with a return of the names and such other particulars of the members as may be prescribed ;"

(b) for clause (3), the following clause shall be substituted, namely :—

"(3) require any person to furnish a statement of the names and addresses of all persons to whom he has paid in any year rent, premium, interest, commission, royalty or brokerage, or any annuity not being an annuity taxable under the head "salaries", or any other sum chargeable under the Act amounting to more than four hundred rupees, together with particulars of all such payments made ;"

(c) after clause (4), the following clauses shall be inserted, namely :—

"(5) require any person doing or managing any business on behalf of another person not resident in the taxable territories or having any business connection with such other person within the meaning of section 42 to furnish a statement of the names and addresses of all such persons on whose behalf he has done business in the taxable territories or with whom he has such business connection in any year ;

(6) require any banking or insurance company, notwithstanding anything in any law to the contrary, to furnish a statement of the names and addresses of all persons who have made deposits or have taken loans or overdrafts or who have made remittances or who have taken policies in any year of such amount as may be prescribed together with particulars of the deposits, loans, overdrafts, remittances, policies and of the securities and other property lodged with the banking or insurance company, as the case may be ;

(7) require any chartered accountant to furnish a statement of the names and addresses of the businesses and of the proprietors thereof whose accounts were audited by him in any year together with the particulars of the period to which the accounts relate and the scope of such audit;

(8) require any person who owns jointly with other persons any security, stocks, shares or deposits or property to furnish a statement of the names and addresses of all persons who have a beneficial interest therein and the extent of such beneficial interest;

(9) require any person maintaining a safe deposit vault to furnish the names and addresses of all persons who have or had at any time hired lockers or have lodged any property for safe custody;

(10) require any person to furnish such information or evidence which may directly or indirectly be useful for or relevant to any assessment made or to be made";

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Any return or statement required under sub-section (1) shall be in the prescribed form and verified in the prescribed manner.”

40. Amendment of section 41, Act XI of 1922.—In sub-section (1) of section 41 of the principal Act,—

(i) after the words and figures “the Mussalman Wakf Validating Act, 1913,” the words “or the Shabait or other manager of a property held under a private religious trust or an endowment or any other legal obligation” shall be inserted;

(ii) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that in the following cases the tax on such income, profits and gains shall be levied and recoverable at the maximum rate, namely:—

(i) where the income, profits and gains are receivable on behalf of or for the benefit of an artificial or juridical person;

(ii) where the income, profits and gains are not specifically receivable on behalf of any individual: or

(iii) where the income, profits and gains are receivable on behalf of or for the benefit of more than one person, and the relevant document or record, if any, does not specify the separate share of each person; unless the persons, none of them being an artificial or juridical person, have no other personal income chargeable under this Act, in which case the tax shall be levied and recoverable, as if such income, profits and gains or such part thereof were the total income of an association of persons:”.

41. Amendment of section 42, Act XI of 1922.—In section 42 of the principal Act,—

(a) for the words beginning with “All income” and ending with the words “the assessee in respect of such income-tax:” the following shall be substituted, namely:—

“Save as otherwise provided in sub-section (1) of section 4, all income, profits or gains accruing or arising, whether directly or indirectly through or from any business connection in the taxable

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territories, or through or from any property in the taxable territories, shall be deemed to be income accruing or arising within the taxable territories, and where the person entitled to the income, profits or gains is not resident in the taxable territories, he shall be chargeable to income-tax, either in his own name or in the name of his agent treated as such under section 43, and in the latter case such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax, all income, profits or gains of such person chargeable in the taxable territories, whether receivable by him direct or through or from any other person, being assessed in the name of such agent: ”;

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Where a notice under sub-section (2) of section 22 or section 34 has been issued for the purposes of making an assessment in the case of a person not resident in the taxable territories (whether such notice is issued to him direct or to his agent treated as such under section 43), the Income-tax Officer may, if he thinks that the circumstances of the case so require, issue, pending completion of the assessment, an order prohibiting any person holding any assets of, or from whom any money is due to, the person not resident, from transferring such assets or paying such money to the person not resident or to any other person on his behalf, and any such order issued by the Income-tax Officer shall be in force for such period as may be specified in the order and shall have the same effect as an attachment by the Collector in the exercise of his powers under the proviso to sub-section (2) of section 46.

(1B) If any person to whom an order under sub-section (1A) has been issued fails to comply therewith, he shall be personally liable for the payment of the tax due on the total income of the person not resident to the extent of the value of the assets or the money so held or payable by him, and, for the purposes of Chapter VI of this Act, such person shall be deemed to be an assessee in default.”;

(c) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where a person carries on business in the taxable territories and it appears to the Income-tax Officer that, owing to the close connection between such person and another person who is not resident and is not chargeable in the taxable territories, the business carried on in the taxable territories produces to such first mentioned person either no profits in the taxable territories or less than the ordinary profits which might be expected to arise in the taxable territories in that business, such first mentioned person shall be chargeable to tax on such amount of profits as might reasonably have been expected to arise or deemed to arise in the taxable territories but for the close connection between him and the other person.”;

(d) in sub-section (3), for the words “shall be” the words “shall, subject to any rules made in this behalf by the Central Board of Revenue for any such business or class of business, be” shall be substituted.

42. Amendment of section 44, Act XI of 1922.—Section 44 of the principal Act shall be renumbered as sub-section (1) thereof, and after that sub-section as so renumbered, the following sub-section shall be inserted, namely :—

“(2) Notwithstanding anything contained in the Indian Companies Act, 1913 (VII of 1913), where, in respect of the profits and gains of any previous year, whether such previous year is the previous year for the assessment for the year ending on the 31st day of March, 1952, or is the previous year for the assessment for any year prior or subsequent thereto, tax is or has been assessed on a company, whether before or in the course of or after its liquidation, if any, and any such tax cannot be recovered from the company, then—

(i) every person who is or was a shareholder of the company at any time during the relevant previous year, and

(ii) every other company whose shares carrying not less than ninety per cent of the voting power are or were owned directly or indirectly by the first mentioned company at the end of the relevant previous year,

shall be jointly and severally liable for the payment of the tax, and shall, for the purposes of sections 45 and 46, be deemed to be an assessee in default :

Provided that clause (i) of this sub-section shall not apply where the company is, within the meaning of the *Explanation* to sub-section (1) of section 23A, deemed to be a company in which the public are substantially interested.”

43. Substitution of new Chapter for Chapter V-A in Act XI of 1922.—For Chapter VA of the principal Act, the following Chapter shall be substituted, namely :—

“CHAPTER VA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF SHIPS AND AIRCRAFT.

44A. Liability to tax on ships or aircraft in respect of occasional trips.—The provisions of this Chapter shall, notwithstanding anything contained in any other provision of this Act, apply for the purpose of the levy and recovery of tax in the case of any person who resides out of the taxable territories and carries on business in the taxable territories in any year as the principal owner or charterer of a ship or of an aircraft (such person hereinafter in this Chapter being referred to as the principal), unless the Income-tax Officer—

(a) in the case of the principal of a ship, is satisfied, or

(b) in the case of the principal of an aircraft, has notified the Customs Collector or other officer authorised in this behalf by the Customs Collector,

that there is an agent of such principal from whom the tax will be recoverable in the following year under the provisions of this Act.

44B. Return of profits and gains.—(1) Before the departure from any port in the taxable territories of any ship, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the principal or to any person on his behalf on account of the carriage of all passengers, livestock or goods shipped at that port since the last arrival of the ship thereat.

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(2) Before the departure from any customs aerodrome in the taxable territories of any aircraft, the pilot or other person in charge of the aircraft shall prepare and furnish to the Customs Collector or other officer authorised by the Customs Collector in this behalf a return of the full amount of the fare and freight paid or payable to the principal or to any person on his behalf on account of the carriage of all passengers, livestock or goods booked by the aircraft in the taxable territories since the last of such returns, if any, was made.

(3) On receipt of the return, the Income-tax Officer, if the matter relates to a ship and the Customs Collector or other officer, if the matter relates to an aircraft, shall assess the amount referred to in sub-section (1) or, as the case may be, in sub-section (2), and may for this purpose call for or inspect such accounts or documents as he may require, and the amount of the profits and gains accruing to the principal shall—

(a) where it relates to the carriage of the passengers, livestock and goods shipped at the port, be deemed to be one-sixth of the amount so assessed, and

(b) where it relates to the carriage of the passengers, livestock and goods booked at the aerodrome, be deemed to be one-sixteenth of the amount so assessed.

(4) When the profits and gains have been assessed as aforesaid, the Income-tax Officer, Customs Collector or other officer, as the case may be, shall determine the sum payable as tax thereon at the rate for the time being applicable to the total income of a company, and such sum shall be payable by the master of the ship or, as the case may be, the pilot or other person in charge of the aircraft, and a port-clearance shall not be granted to the ship or aircraft until the Customs Collector, or other officer authorised in this behalf by the customs collector or any other officer duly authorised to grant the same is satisfied that the tax has been duly paid.

(5) Every Customs Collector and any other officer authorised in this behalf by the Customs Collector who has collected any sums under this Chapter shall, within such time and in such manner as may be prescribed by the Central Board of Revenue, pay the amount so collected to the credit of the Central Government and shall also furnish to the Income-tax Officer such statements and information in this behalf as may be prescribed.

44C. *Adjustment*.—Nothing in this Chapter shall be deemed to prevent the principal from claiming in any financial year that a regular assessment be made of his total income of the previous year, and that the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and, if he so claims, he shall be entitled to credit for any payment made during the previous year, and the difference between the sum so paid and the amount of tax found payable by him shall be paid by him or refunded to him, as the case may be."

44. Amendment of section 44D, Act XI of 1922.—In section 44D of the principal Act,—

(a) in sub-section (1), the words "or to a person resident but not ordinarily resident" shall be omitted;

(b) in sub-section (2), the words "or resident but not ordinarily resident" shall be omitted.

45. Insertion of new section 44G in Act XI of 1922.—In Chapter VB, after section 44F of the principal Act, the following section shall be inserted, namely :—

“ 44G. *Liability to tax in the case of unknown shareholders, depositors, etc.*—(1) Where an Income-tax Officer is of the opinion that any person registered as shareholder or debenture holder of a company or shown as depositor or creditor in the books of a company or of any other person is either not in existence or not traceable at the address, if any, given in the books of the company or in the books of that other person, or that the registered shareholder, debenture holder, depositor or creditor disowns the share, debenture, deposit or credit, the Income-tax Officer may, by notice, require the company or that other person, as the case may be, to take steps in the prescribed manner to trace the shareholder, debenture holder, depositor or creditor, as the case may be, and thereupon such share, debenture, deposit or credit shall not be dealt with in any manner by the company or that other person except with the written authority of the Income-tax Officer.

(2) If before the expiry of two years from the date of notice referred to in sub-section (1), the company or the other person is not able to prove to the satisfaction of the Income-tax Officer the identity, existence and address of the shareholder, debenture holder, depositor or creditor, as the case may be, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, pass an order accordingly, and thereupon the entire value of such share, debenture, deposit or credit shall, notwithstanding any time-limit specified in section 34, be deemed to have been the tax evaded by the unknown person who is the shareholder, debenture holder, depositor or creditor, as the case may be, and within one week of the date on which the company or that other person is served with a copy of the Income-tax Officer's Order—

(a) the company shall cancel the original share certificate or debenture bond, and issue a duplicate share certificate or debenture bond in the name of, and

(b) in the case of a deposit or credit, the company or other person shall transfer the same to

the Reserve Bank of India for and on behalf of the Consolidated Fund of India :

Provided that the Income-tax Officer may, for good and sufficient cause, extend the time for transferring a deposit or credit under this sub-section.

(3) Any company which has issued a duplicate share certificate or debenture bond or any company or other person who has transferred his deposit or credit within the time specified in sub-section (2) or within such further time as may have been allowed by the Income-tax Officer, shall be indemnified against all claims that may be made in respect of the cancellation of the original share certificate or debenture bond and the issue of duplicate certificate or bond, or the transfer of the amount of deposit or credit, if the company or the other person, within one month of the date of the notice referred to in sub-section (1), publishes or causes to be published in the Gazette of India and in a daily newspaper a notice in the prescribed form calling upon the registered shareholder, debenture holder, depositor or creditor to prove before the Income-tax Officer having jurisdiction his identity and his title (and such further facts as

may be required by the notice to be proved) to the share, debenture, deposit or credit, as the case may be.

(4) Any company or any other person who does not comply with the requirements of sub-section (1) or sub-section (2) in respect of the issue of duplicate share certificate or debenture bond, or the transfer of the amount at deposit or credit, shall be deemed to be an assessee in default in respect of the entire value of such share, debenture, deposit or credit and all the provisions of this Act shall apply accordingly.

(5) Any person claiming himself to be entitled to any share, debenture, deposit or credit in respect of which the Income-tax Officer has passed an order under sub-section (2), may, within thirty days of the date on which the company or the other person has been served with a copy of the Income-tax Officer's order, appeal to the Appellate Assistant Commissioner of Income-tax, in the same manner as if he were denying his liability to be assessed under this Act and all the provisions of this Act, shall apply accordingly."

46. Insertion of new section 45A in Act XI of 1922.—After section 45 of the principal Act, the following section shall be inserted, namely :—

"45A. *Liability for tax in respect of income from certain assets included in the total income of persons other than ostensible owners, etc.*—Where in accordance with the provisions of clause (c) of sub-section (1) or sub-section (3) of section 16 or section 44D or for any other reason, the income from any assets or dealings in such assets is included in the total income of any person who is not the ostensible or legal owner of such assets, then, notwithstanding the provisions contained in any other law for the time being in force, the tax in respect of the income so included may be recovered from the ostensible or legal owner of those assets :

Provided that not such recovery shall be made unless the ostensible or legal owner had notice of the assessment proceedings at any time before the assessment was made whereby the income came to be so included in the total income of that other person."

47. Amendment of section 46, Act XI of 1922.—In section 46 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) When an assessee is in default in making a payment of income-tax, the Income-tax Officer may—

(a) direct, in his discretion, that in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty ;

(b) with the previous approval of the Commissioner, publish, in such manner as may be prescribed the name and address of, and the amount of arrears and penalty due from, the assessee in default.

Explanation.—For the purposes of this section, the word "arrears", in any case in which an assessee has been allowed to pay any demand payable under this Act by instalments (whether by an income-tax authority or by the Collector) and has made default in the due payment thereof, means the aggregate of the amount of all the instalments still remaining to be paid after the date of the default."

(b) after sub-section (1A), the following sub-section shall be inserted, namely :—

“(1B) Where an assessee dies before payment of the income-tax or penalty due from him, the income-tax and penalty due may be recovered from his executor, administrator or other legal representative and for the purposes of this section, such executor, administrator or other legal representative shall be deemed to be the assessee in default and all proceedings may be taken or continued against him accordingly :

Provided that the liability under this section of the executor, administrator or other legal representative shall be limited to the extent to which the estate of the deceased which has come into his hands is capable of meeting the charge.” ;

(c) in sub-section (5A), for the last paragraph, the following paragraph shall be substituted, namely :—

“Where a person to whom a notice under this sub-section is sent, objects to it on the ground that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee or that a third person has a lien or charge on, or other interest in, such sum, the Income-tax Officer shall proceed to investigate the objection, and, if after making such investigation thereinto as he thinks fit, he is satisfied that the objection is wholly or partly proved, he shall rescind or modify the notice issued by him under this sub-section and if he is satisfied that the objection has not been proved, he shall disallow the objection, in which case the notice given shall be effective until the Income-tax Officer's finding is set aside by a civil court :

Provided that where any investigation under this paragraph concerns the lien or charge of a third person, no such investigation shall be made until such person has been given notice thereof and an opportunity to adduce evidence in support of his claim.” ;

(d) after sub-section (5A), the following sub-sections shall be inserted, namely :—

“(5B) The Income-tax Officer may, by notice in writing (a copy of which shall be forwarded to the assessee at his last address known to the Income-tax Officer), prohibit any person holding in his custody any assets belonging to the assessee from parting with them, either in favour of the assessee or any other person, and any such notice shall have the same effect as if it were an attachment by the Collector in exercise of his powers under the proviso to sub-section (2).

(5C) If any person to whom a notice under sub-section (5B) is sent, fails to comply with the notice and parts with the assets, he shall be deemed to be an assessee in default, so however that the extent of his liability shall not exceed the value of the assets he has so parted with :

Provided that if any such person parts with the assets in favour of the assessee in any case where the particulars of the assets have not been disclosed to him by the assessee, whether at the time when the assets were placed in his custody or at any time subsequent thereto, he shall be deemed to have committed an offence under this sub-section and on conviction before a magistrate, be punishable with imprisonment which may extend to six months,

or with fine which may extend to ten thousand rupees, or with both.”;

(e) to sub-section (7) the following *Explanation* shall be added, namely :—

Explanation.—“ A proceeding for the recovery of any sum ” shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and, for the removal of doubts, it is hereby declared that the several modes of recovery specified in this section are not mutually exclusive and do not in any way affect any other law for the time, being in force relating to the recovery of debts due to Government.”

48. Insertion of new section 46A in Act XI of 1922.—After section 46 of the principal Act, the following section shall be inserted, namely :—

‘ 46A. *Persons leaving India to obtain tax clearance certificates.*—

(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India or who, even if domiciled in India at the time of his departure, has, in the opinion of an income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (in this section referred to as the “competent authority”) a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person :

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory, allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the amount of tax, if any, which is or may be payable by such person and shall also be punishable with fine which may extend to two thousand rupees.

Explanation.—For the purposes of this sub-section the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46 of this Act.

(4) The Central Government may make rules for regulating any matter necessary for or incidental to the purpose of carrying out the provisions of this section.

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49. Amendment of section 49D, Act XI of 1922.—For section 49D of the principal Act, the following section shall be substituted, namely :—

‘49D. Relief in respect of income accruing or arising outside the taxable territories.—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories) he has paid in any country with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the assessment for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951.

Explanation.—In this section,—

(i) the expression “Indian income-tax” means income-tax and super-tax charged in accordance with the provisions of this Act ;

(ii) the expression “Indian rate of tax” means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income ;

(iii) the expression “rate of tax of the said country” means income-tax and super tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, divided by the whole amount of the income assessed in the said country.’

50. Amendment of section 49E, Act XI of 1922.—In section 49E of the principal Act, for the words “against the tax” the words “against the tax, interest or penalty” shall be substituted.

51. Substitution of new section for section 51, Act XI of 1922.—For section 51 of the principal Act, the following section shall be substituted, namely :—

“51. Failure to make payments or deliver returns or statements, etc.—If a person fails without reasonable cause or excuse—

(a) to deduct and pay tax as required under section 18 or sub-section (5) of section 46 ;

(b) to furnish a certificate required under sub-section (9) of section 18 or section 20 ;

(c) to furnish in due time any of the returns mentioned in section 19A, section 20A, section 21, sub-section (2) of section 22, or section 38 ;

(d) to furnish in due time the return required under sub-section (1) of section 22 in any case where the total income exceeds the amount not chargeable to income-tax by two thousand rupees provided the failure was also wilful ;

(e) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (4) of section 22, such accounts and documents as are referred to in the notice ;

(f) to comply with any provisions of section 25B or fails as a trustee duly to pay the tax for which he is liable under the said section ;

(g) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a magistrate, be punishable with fine which may extend to ten rupees or with imprisonment for one day for every day during which the failure continues."

52. Substitution of new section for section 52, Act XI of 1922.—For section 52 of the principal Act, the following section shall be substituted, namely :—

"52. *False statement in declaration.*—(1) If a person makes a statement in a verification mentioned in section 19A or section 20A or section 21 or sub-section (2) of section 26A or sub-section (3) of section 30 or sub-section (3) of section 33A or sub-section (2) of section 38 which is false or incomplete, and which he either knows or believes to be false or incomplete, or does not believe to be true or complete, he shall, on conviction before a magistrate, be punishable with simple imprisonment which may extend to six months and with fine which shall not be less than one thousand rupees.

(2) If a person makes a statement in a verification mentioned in sub-section (1) or sub-section (2) of section 22 which is false or incomplete and which he either knows or believes to be false or incomplete or does not believe to be true or complete, or produces or causes to be produced accounts or documents in response to a notice under sub-section (4) of the said section or sub-section (2) of section 23, which are false and which he either knows or believes to be false or does not believe to be true, he shall on conviction before a magistrate, be punishable with rigorous imprisonment which may extend to seven years but which shall not be for less than three years and with fine which shall not be less than the amount of the tax which would have been lost or the refund which would have been allowed in excess, had the verification or the accounts or documents been accepted at their face value.

(3) The provisions of sections 233 and 234 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply to the trial of offences under this section or to the trial of offences under sections 193, 196 and 228 of the Indian Penal Code (Act XLV of 1860) where the offences are committed in the course of assessment or refund or recovery proceedings relating to one and the same year of assessment of one and the same person, and for the purposes of section 235 of the Code of Criminal Procedure, 1898, all acts done in the course of such proceedings shall be deemed to form the same transaction."

53. Insertion of new section 52A in Act XI of 1922.—After section 52 of the principal Act, the following section shall be inserted, namely :—

"52A. *Abetment.*—If a person abets the commission of a default or the doing of anything by another person whereby the other person is rendered liable to prosecution under section 51 or section 52, the person abetting shall, on conviction before a magistrate, be punishable with the punishment provided for the offence abetted."

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54. Substitution of new section for section 53, Act XI of 1922.—For section 53 of the principal Act, the following section shall be substituted, namely :—

“53. *Sanction to prosecute and compounding of offences.*—(1) No court shall take cognizance of an offence under section 51 or section 52 or section 52A except with the previous sanction of either the Appellate Tribunal or an income-tax authority not below the rank of an Assistant Commissioner.

(2) Before granting sanction under sub-section (1), the Appellate Tribunal or the income-tax authority, as the case may be, may call upon the person concerned to show cause why he should not be prosecuted for the offence alleged to have been committed by him and may, if it so thinks fit, compound, with the previous approval of the Central Government, any such offence and any sum payable under any such composition may be recovered under this Act as an arrear of income-tax.”

55. Amendment of section 54, Act XI of 1922.—In sub-section (3) of section 54 of the principal Act,—

(i) for clauses (a) and (b), the following clauses shall be substituted, namely :—

“(a) of any such particulars in connection with a prosecution under the Indian Penal Code (Act XLV of 1860) or under this Act, in respect of any matter arising in the course of the execution of this Act, or

(b) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947,”;

(ii) in clause (d), after the word “Government” the words “or any person acting in the execution of this Act” shall be inserted;

(iii) in clause (gg), the words “in connection with income-tax proceedings” shall be omitted and for the words “registered accountant” the words “chartered accountant” shall be substituted;

(iv) in clause (p), for the word and figures “Ordinance, 1949”, the word and figures “Act, 1950”, and for the words “said Ordinance” the words “said Act, or” shall be substituted;

(v) after clause (p), the following clauses shall be inserted, namely :—

“(q) of any such particulars to the Advocate-General where the Income-tax Officer has reason to believe that there has been a breach of trust relating to property held under trust or other legal obligation for religious or charitable purposes to enable the Advocate-General to take such action as he may think fit, or

(r) of any such particulars of an incriminatory character to any authority or court, legally entitled to take action in respect thereof, where such particulars have been furnished by the person with a view to reduce his liability to tax or to secure any other advantage under this Act, or

(s) of any statements to any person or court, if the statements made by the assessee are of such a nature as enables another person to establish his right or title to any property or assets, or

(t) with the previous sanction of the Commissioner, of any such particulars to any person, where the Income-tax Officer considers that that person would be in a position to help him in the detection of any concealed income, or

(u) of any such particulars as may be necessary for the purposes of sub-section (7) of section 28 or of sub-section (1) of section 46 of this Act, or

(v) of any such particulars to any department of the Central Government, or the Government of a State or to any court or to any local authority or a chamber of commerce with a view to enabling that Government or authority or court or chamber to confer upon or withdraw from any person any privilege, patronage, office, position of trust or benefit of any kind."

56. Amendment of section 58C, Act XI of 1922.—In sub-section (1) of section 58C of the principal Act,—

(i) to clause (d) the following proviso shall be added, namely :—

" Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee, and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (g).";

(ii) in clause (g), after the words "maintaining the fund" the words "unless at the request of the employee made in writing the whole or a part of the accumulated balance due to him is retained in the fund to be drawn by him at any time on demand" shall be inserted.

57. Amendment of section 58P, Act XI of 1922.—Section 58P of the principal Act shall be renumbered as sub-section (1) thereof, and in that sub-section as so renumbered, for the words "the following conditions shall be satisfied" the words "it shall satisfy the conditions set out below and any other conditions which the Central Government may, by rules prescribed" shall be substituted, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

" (2) Where there is a repugnancy between any rules of an approved superannuation fund or the terms of the instrument under which the fund is established and any provisions of this Chapter or of the rules made thereunder, the rules of the fund or the terms of the instrument under which the fund is established shall, to the extent of the repugnancy, be of no effect : and the Central Board of Revenue may at any time require that such repugnancy shall be removed from the rules of the fund or the terms of the instrument, as the case may be."

58. Amendment of section 58S, Act XI of 1922.—In section 58S of the principal Act,—

(a) in sub-section (2), the words "but not at or in connection with the termination of his employment" shall be omitted ;

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

" (3) Where a lump sum is paid to an employee or a former employee in commutation of or in lieu of an annuity, income-tax and super-tax on the sum so paid shall, except in the case of a person whose employment was carried on abroad, be deducted by the trustees at a rate equal to one-third of the rate of income-tax and

super-tax at which the employee or the former employee would have been liable to income-tax and super-tax in respect of the previous year in which the payment is made, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Central Board of Revenue may direct; and the provisions of sub-sections (4), (5), (6), (7), (8) and (9) of section 18 shall apply as if the sum to be deducted under this sub-section and sub-section (2) were income-tax payable under the head 'Salaries'."

59. Insertion of new section 58W in Act XI of 1922.—In Chapter IXB of the principal Act, after section 58V, the following section shall be inserted, namely:—

"58W. *Provisions relating to rules.*—(1) All rules made under this Chapter shall be subject to the provisions of sub-sections (4) and (5) of section 59.

(2) In addition to any power conferred by this Chapter, the Central Government may make rules—

(a) prescribing the statements and other information to be submitted with an application for approval;

(b) limiting the 'ordinary annual contribution' and any other contribution by an employer;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;

(d) determining the extent to, and the manner in, which exemption from payment of income-tax and super-tax may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn;

(e) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Chapter and of the rules made thereunder; and

(f) generally, to carry out the purposes of this Chapter and to secure such further control over the approval of the superannuation funds and the administration of the approved superannuation funds as it may deem requisite."

60. Amendment of section 59, Act XI of 1922.—In sub-section (2) of section 59 of the principal Act, for clauses (c) and (d), the following clauses shall be substituted, namely:—

"(c) prescribe the procedure for giving effect to the terms of any agreement for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA;

(d) provide for the grant of rewards to persons giving definite information or assistance leading to the detection of any concealment or under-statement of income by an assessee, or to the recovery of any tax or penalty from him and the manner and circumstances in which rewards may be granted;"

61. Insertion of new section 59A, in Act XI of 1922.—After section 59 of principal Act, the following section shall be inserted, namely:—

"59A. *Power to tender immunity from prosecution, etc.*—(1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of

any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code (Act XLV of 1860) or under any other Central law for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable."

62. Amendment of section 61, Act XI of 1922.—In section 61 of the principal Act, —

(a) in sub-section (2), —

(i) for clause (ii), the following clause shall be substituted, namely:—

(ii) "lawyer" means any person entitled to plead in any civil or criminal court in the taxable territories, and includes a solicitor who, before the 1st day of April, 1951, has attended before an income-tax authority or the Appellate Tribunal on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee;

(ii) for clauses (iii) and (iv), the following clauses shall be substituted, namely:—

(iii) "accountant" means a chartered accountant as defined in the Chartered Accountants Act, 1949 (XXXVIII of 1949);

(iv) "income-tax practitioner" means a person who is for the time being enrolled in the Register of Income-tax Practitioners maintained by a Commissioner of Income-tax under sub-section (2B);

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

(2A) Any of the following persons shall, subject to the provisions contained in sub-section (3) and subject to any rules which the Central Board of Revenue may make in this behalf, be entitled on payment of such fee as may be prescribed to have his name entered in the Register of Income-tax Practitioners maintained by a Commissioner,—

(a) any person who before the 1st day of April, 1951, was entitled to act as an income-tax practitioner and has attend

before an income-tax authority subordinate to that commissioner on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee ;

(b) any person who has acquired such educational qualifications and experience or has passed such examination as the Central Board of Revenue may prescribe for this purpose :

Provided that nothing contained in clause (a) or clause (b) shall be deemed to prohibit any person having the requisite qualifications prescribed therein from having his name entered in the registers maintained by more than one Commissioner on payment of a separate fee for each registration ;

(2B) Each Commissioner of Income-tax shall maintain in the prescribed form a Register of Income-tax Practitioners, entitled to appear before an income-tax authority subordinate to him and may, at any time, remove from the register the name of any income-tax practitioner—

(a) who has not paid any prescribed fee required to be paid by him ; or

(b) who is found at any time to be subject to any of the disqualifications mentioned in sub-section (3) ; or

(c) who has been found guilty of misconduct under the rules made by the Central Board of Revenue in this behalf ; or

(d) whose name has been removed from the register maintained by any other Commissioner acting under clause (b) or clause (c) ;

(c) in sub-section (3), for the words beginning with “ No person who has been dismissed ” and ending with the words “ to represent an assessee under sub-section (1) ”, the following shall be substituted, namely :—

“(3) No person—

(a) who has been dismissed from the service of Government after the 1st day of April, 1938 ; or

(b) who has resigned from the service of Government before the completion of twenty-five years of service ; or

(c) who was formerly in the service of such department of Government as may be prescribed, unless two years have elapsed since the date of his leaving the service ; or

(d) who has been convicted of an offence connected with any income-tax proceedings or of any offence involving moral turpitude or on whom a penalty has been imposed under section 28, either in respect of his own assessment or for abetment of an offence in respect of the assessment of another person ; or

(e) who has been in partnership with any other person for the exercise of a profession or vocation during which that other person has been convicted of an offence connected with an income-tax proceeding or a penalty for abetment has been imposed on that other person under section 28 ; or

(f) who has become an insolvent,

shall be qualified to represent an assessee under sub-section (1), and if any lawyer or chartered accountant is found guilty of misconduct by the authority empowered to take disciplinary action against a member of the profession to which he belongs, or if any other person is found

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guilty of such misconduct by the Commissioner of Income-tax, the Commissioner of Income-tax may direct that the lawyer, chartered accountant or the other person, as the case may be, shall be disqualified, either for all time or for such period as may be specified to represent an assessee under sub-section (1):”;

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) In addition to any rules which may be made under sub-sections (2A) and (2B), the Central Board of Revenue may make rules—

(a) regulating the conduct of income-tax practitioners;

(b) prescribing the form of application for enrolment in the Register of Income-tax Practitioners, and the procedure for making such an application;

(c) prescribing the amount of fee for each initial registration and for the annual renewal thereof and the time and mode of payment of such fee;

(d) providing for the refund of fees where the application for enrolment is rejected.”

63. Amendment of section 63, Act XI of 1922.—In section 63 of the principal Act,—

(a) in sub-section (1), for the words “A notice” the words “Subject to any rules which the Central Board of Revenue may make in this behalf, a notice” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Any such notice or requisition may—

(i) in the case of an individual, be addressed to him by name or in the name, if any, in which he is carrying on business, or, in the case of a minor or a lunatic or an idiot, to his guardian or trustee or, in the case of a deceased individual, to his legal representative;

(ii) in the case of a Hindu undivided family, be addressed to it in the name, if any, in which the family is carrying on business or to the manager or any adult member of the family or to the guardian of any minor member of the family, or where the family has become dissolved to any adult person who was the manager or a member of the family at the time of dissolution or where the dissolution is caused by the death of any member to the legal representative of any such deceased member;

(iii) in the case of a company, be addressed to it in the name of the company or to a principal officer thereof or in the case of a company other than a company in which the public are substantially interested within the meaning of section 23A, to any person who was a shareholder of the company at any time during the relevant previous year;

(iv) in the case of a firm, be addressed to it in the name of the firm or to any member of the firm, or where the firm has been dissolved, to any person who was a member of the firm or to any person who is the legal representative of a deceased person who was a member of the firm at any time during the relevant previous year;

(v) in the case of any other association of persons, be addressed to it in the name by which the association is generally known, or to the principal officer thereof, or where the association has become dissolved to the person who was the principal officer or who was a member of the association at any time during the relevant previous year or to the legal representative of any such deceased member."

64. Amendment of section 64, Act XI of 1922.—In sub-section (1) of section 64 of the principal Act, after the words "is situate" the following words shall be inserted, namely:—

"and where the business, profession or vocation has been discontinued, by the Income-tax Officer of the area in which the place, or the principal place, at which the business, profession or vocation was carried on is situate."

65. Substitution of new section for section 66 in Act XI of 1922.—For section 66 of the principal Act, the following section shall be substituted, namely:—

"66. Statement of case by Appellate Tribunal to High Court or to the Supreme Court.—(1) Within sixty days of the date on which he is served with an order under sub-section (4) of section 33, the assessee or the Commissioner may present an application to the Appellate Tribunal in the prescribed form, accompanied, where the application is presented by the assessee by a fee of one hundred rupees in respect of each appeal disposed of by the order, requiring the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and subject to the other provisions contained in this section the Appellate Tribunal shall within one hundred and eighty days of the receipt of such application draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period of sixty days hereinbefore specified, allow it to be presented within a further period not exceeding fifteen days.

(2) If on an application made under sub-section (1), the Appellate Tribunal—

(a) refuses to state a case on the ground that no question of law arises, or

(b) rejects it on the ground that it is time-barred,

the assessee or the Commissioner, as the case may be, may, in any case falling within clause (a) of this sub-section, within six months from the date on which he is served with the notice of refusal, and in any case falling within clause (b) of this sub-section, within two months from the date on which he is served with the notice of rejection, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and refer it to the High Court and, on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly:

Provided that if in any case where it has been required by an assessee to state a case, the Appellate Tribunal refuses to do so on the ground that no question of law arises, the assessee may, within thirty days from the date on which he receives notice of the refusal to state the case, withdraw his application, and if he does so the fee paid by him under sub-section (1) shall be refunded.

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(3) Section 5 of the Indian Limitation Act, 1908 (IX of 1908) shall apply to an application to the High Court under sub-section (2).

(4) If on an application made under sub-section (1), the Appellate Tribunal is of opinion that either on account of the importance of any question of law involved in the case or on account of a conflict in the decisions of different High Courts in respect of any particular question of law arising therefrom, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it direct to the Supreme Court.

(5) If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it under this section are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal to make such additions thereto or alterations therein as it may direct in that behalf.

(6) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein and shall deliver its judgment thereon containing the ground on which such decision is sounded, and a copy of the judgment shall be sent under the Seal of the Court and the signature of the Registrar, to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

(7) The costs of any reference to the High Court or the Supreme Court shall be in the discretion of the Court.

(8) Notwithstanding that a reference has been made under this section to the High Court or the Supreme Court, income-tax shall be payable in accordance with the assessment made in the case.

(9) Where the amount of an assessment is reduced as a result of any reference to the High Court or the Supreme Court under this section, the amount overpaid shall be refunded with such interest as the Commissioner may allow, unless in the case of a reference to the High Court, the High Court, on an intimation given by the Commissioner within thirty days of the result of such reference that he intends to apply for leave to appeal to the Supreme Court, makes an order authorising the Commissioner to postpone the payment of such refund until the disposal of the appeal to the Supreme Court.

(10) For the purposes of this section, 'the High Court' means, if the place of assessment of the assessee is in the State of—

(a) Uttar Pradesh or Vindhya Pradesh,—
the High Court at Allahabad;

(b) Bombay, Hyderabad, Madhya Bharat, Rajasthan, Saurashtra, Ajmer or Kutch,—
the High Court at Bombay;

(c) Assam, West Bengal, Manipur, Tripura or the Andamans and Nicobar Islands,—
the High Court at Calcutta;

(d) Madras, Mysore, Travancore-Cochin or Coorg,—
the High Court at Madras;

(e) Madhya Pradesh or Bhopal,—
the High Court at Nagpur;

(f) Bihar or Orissa,—
the High Court at Patna and

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(g) Punjab, Patiala and East Punjab States Union, Billaspur, Delhi or Himachal Pradesh,—
the High Court of Punjab.

66. Amendment of section 66A, Act XI of 1922.—In sub-section (1) of section 66A of the principal Act, for the words, brackets and figures “and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (V of 1908) shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force” the following shall be substituted namely :—

“and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges :

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.”

67. Amendment of section 67, Act XI of 1922.—In section 67 of the principal Act, for the words “No suit shall be brought in any civil court to set aside or modify an assessment made under this Act” the following shall be substituted, namely :—

“No suit or other proceeding shall be brought in any civil court to set aside or modify an assessment made under this Act, and no suit or other proceeding shall lie for the grant of any relief by any court which will have the effect of preventing the commencement or continuance of any assessment proceedings against any person under this Act.”

68. Amendment of section 67A, Act XI of 1922.—In section 67A of the principal Act, for the words “and the time requisite” the words “and where a copy of the order has not been served on the person concerned the time requisite” shall be substituted.

69. Amendment of section 67B, Act XI of 1922.—In section 67B of the principal Act, for the words “as if the provision in force in the preceding year or the provision proposed in the Bill then before the Parliament, whichever is more favourable to the assessee”, the words “as if the provision proposed in the Bill then before Parliament” shall be substituted.

70. Insertion of new section 67C in Act XI of 1922.—After section 67B of the principal Act, the following section shall be inserted, namely :—

“67C. *Formal defects in proceedings not to invalidate assessments.*—

(1) No assessment or other proceeding made or purporting to have been made in pursuance of this Act shall be deemed invalid merely on the ground of any error, omission, irregularity or other defect in the proceeding or in the form of any notice or order issued or made in connection therewith, if the error, omission, irregularity or other defect has not prevented a substantial compliance with this Act according to its true intent and purposes, and has not, in fact, occasioned a failure of justice.

(2) Without prejudice to the generality of sub-section (1) no assessment or demand made upon an assessee shall be deemed to be invalid merely on the ground of a mistake therein as to the name or

surname of the person liable or the description of the status in which he is chargeable to tax or as to the description of any profits or property or year or years or to the amount of tax charged."

71. Amendment of the Schedule, Act XI of 1922.—In the Schedule to the principal Act,—

(a) for the words "Superintendent of Insurance", wherever they occur, the words "Controller of Insurance" shall be substituted;

(b) in rule 2,—

(i) in clause (b), for the words "actuarial valuation made for the last inter-valuation period" the words "actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period" shall be substituted;

(ii) in clause (d) of the proviso, for the figures "12" the figures "15" shall be substituted;

(c) in clause (a) of rule 3, for the words "one-half" the words "two-thirds" shall be substituted, and in the second proviso for the words "one-half of such amount" the words and brackets "that proportion of such amount (one-half or two-thirds, as the case may be)" shall be substituted;

(d) for rule 8, the following rule shall be substituted, namely:—

"8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income.

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories."

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give effect to such recommendations of the Income-tax Investigation Commission as have been accepted by Government. In addition, the Bill includes—

(a) certain amendments which were originally included in the Taxation Laws Amendment Bill which was introduced in the Budget Session of 1949, but was withdrawn with a view to its provisions being included in a comprehensive Bill which was then under contemplation;

(b) provisions for exempting foreign profits of non-residents when remitted to India within the first two years of their becoming resident in India, so as to enable such persons to bring in their savings to India without any tax liability;

(c) provisions for the granting of full relief up to the limit of the Indian tax in respect of foreign income-tax paid by residents of India on income which does not arise and cannot be deemed to arise in India—a provision which would encourage Indian Nationals to open branches in foreign countries without being subjected to double taxation;

(d) such other amendments as the experience of the working of the Act has indicated to be necessary or desirable. Some of these amendments give relief to assesseees, while others are intended to facilitate collection of tax and to close up loop-holes of evasion.

2. The notes on clauses explain the object underlying each of the important amendments undertaken.

C. D. DESHMUKH.

NEW DELHI;

The 2nd June, 1951.

Notes on Clauses

[The references to Recommendations are to the Serial No. of the recommendations of the Income-tax Investigation Commission given in the Summary on pages 203 to 244 of the Report.]

Clause 2 amends the definitions in section 2. The important amendments are—

Sub-clause (c) (iii) implements recommendation No. 35. It seeks to check evasion of super-tax by shareholders of private companies by drawing the profits as loans instead of as dividends.

Sub-clause (d).—The definition of income has been redrafted for the sake of clarity. *Sub-clause (iv)* of the definition gives effect to recommendation No. 68. The premium received in connection with a lease will be treated as the income of the lessor where the period of lease does not exceed 50 years. The premium would be assessed proportionately over the period of the lease, but where the lease exceeds 20 years, the premium will be spread over 20 years, and assessed. *Sub-clause (v)* of the definition treats as income compensation received on the termination of a managing agency.

Sub-clause (f) implements recommendation No. 159 and is merely clarificatory.

Sub-clause (h) gives effect to recommendation No. 81 and will enable the Income-tax Officer to give credit for the tax on dividends to the person in whose total income the dividend is included.

Clause 3 amends section 4 of the Income-tax Act.

Sub-clause (a) (i) implements the concession announced by Government in 1950 to exempt from tax foreign profits of non-residents which are brought into India within the first two years of their becoming residents of India. The omission of the original second proviso is consequential to the abolition of the category of persons 'not ordinarily resident'. See also clause 5 and recommendations Nos. 2 and 25.

Sub-clause (a) (ii) has the effect of bringing under charge all Government salaries irrespective of the place of payment.

Sub-clause (a) (iii) inserts an explanation which makes it clear that in the case of certain categories of transactions, where the primary source of income is in India, income actually accrues or arises in India.

Sub-clause (b) (i) implements recommendations Nos. 52-54 regarding religious and charitable trusts.

Sub-clause (b) (ii) is intended to check a form of evasion resorted to by employers and employees by describing a part of the remuneration as an allowance to meet expenses to be incurred in connection with the employment. The amendment limits the exemption to actual expenditure incurred by the employee, and brings the law into line with the law in U.K.

Sub-clause (b) (iii) clarifies that the income of private religious endowments is not exempt.

Sub-clause (b) (iv) inserts four new exemption clauses.

Clause 4 implements recommendations Nos. 162 and 163 and is clarificatory in nature.

Clause 5 gives effect to recommendations Nos. 2 and 25 and abolishes the category of 'not ordinarily resident' persons. [See notes under clause 3, sub-clause (a) (i).]

Clause 6 statutorily recognises as income-tax authorities Directors of Inspection and Inspectors of Income-tax, who are already performing important functions in execution of the Act.

Sub-clause (g) implements recommendations Nos. 145—147, by according statutory recognition to the giving of advice and guidance to the Income-tax Officer in important cases by the Director of Inspection, Commissioner or the Inspecting Assistant Commissioner. It also gives these authorities the same powers which an Income-tax Officer has in relation to the making of an assessment.

Clause 7 amends section 5A and removes the statutory bar to the appointment of an Accountant Member as President of the Tribunal, incidentally enhancing the qualifications of Members of the Tribunal.

Clause 8.—*Sub-clause (i)* amends section 7 relating to assessment of salaries. The amendment makes it clear that the word "perquisites" includes the value of any benefits in kind granted to an employee by the employer such as free meals, free domestic services and such other supplies and facilities. A number of business concerns have facilitated tax evasion by their higher paid employee. The cash salary of the employees, which was subjected to tax, was shown at a low figure and the employees were compensated by a number of amenities provided in "kind". U.K. had to make a similar provision in their law to meet this evasion.

Sub-clause (ii) exempts the death-cum-retirement gratuity payable under the new pension rules, and also gives effect to recommendation No. 71 by withdrawing the exemption granted to payments made from an approved superannuation fund, in lieu or in commutation of an annuity, or on the employee leaving the employment, as the exemption of such payments has been used as a method of legal avoidance.

Sub-clause (iii).—This amendment is consequential to clause 3 (a) (ii).

Clause 9 amends section 8 which deals with income chargeable under the head "interest on securities". The amendment places interest on debentures issued by a co-operative society on the same footing as interest on debentures issued by a company, as there is no difference between the two kinds of interest, either in regard to their character or as regards their chargeability.

Sub-clause (ii).—Interest on public loans issued outside India prior to 1st April 1938 is admissible as a deduction in computing the income under this head. It is proposed to continue the concession by executive notification where similar or equivalent concessions are offered by the Government of another country as *quid pro quo*.

Clause 10 amends section 9 which deals with income chargeable under the head "Property".

The amendments are consequential to the amendments of section 14 and section 2 (6C) of the Income-tax Act in pursuance of recommendations Nos. 21—23 (see notes to clause 15) and recommendation No. 68 [see notes to clause 2; sub-clause (d)] respectively. The amendment also clarifies that in computing the annual value of property occupied by the owner, the benefit of deduction of municipal taxes is to be given to the same extent as in the case of property let to a tenant.

Clause 11.—*Sub-clause (1) (i)* allows as a deduction in the payer's hands that portion of the premium which is assessable in the payee's hands [see recommendation No. 68 and notes to sub-clause (d) of clause 2].

Sub-clause (1) (ii) (a).—See notes under sub-clause (ii) of clause 9.

Sub-clause (1) (ii) (b).—It is found that assessee (particularly private companies) sometimes use their own available capital in unbusiness-like activities and borrow money for the purposes of the business and claim the interest paid thereon as a deduction. The amendment seeks to disallow such interest.

Sub-clause (1) (iii) is intended to guard against possibility of such depreciation allowance being carried forward in the assessments of a registered firm as has been set off against the income of the partners of the firm.

Sub-clause (1) (iv) implements recommendation No. 165 and provides for the allowance admissible under section 10 (2) (vii) being given in the case of furniture as well.

An explanation has been added to section 10 (2) (vii) to make it clear that a sale includes exchange and compulsory acquisition of property.

Sub-clause (1) (v) gives effect to recommendation No. 166 and clarifies that the Income-tax Officer may disallow that part of the bonus, etc., which is unreasonable or unjustified.

Sub-clause (1) (vi) gives effect to the second part of recommendation No. 166 and makes it clear that expenditure which would not be admissible under clauses (i) to (xiv) of sub-section (2) of section 10 would not be admissible under the omnibus clause (xv).

Sub-clause (2) (ii) gives effect to recommendation No. 19.

Sub-clause (3) provides for the computation of the written down value, where business assets are acquired by gift or inheritance. The explanation inserted by the clause will ensure that the depreciation allowance is computed only on the actual cost of the asset borne by the assessee.

Sub-clause (4) makes it clear that an incorporated association which is a separate entity from its members, is liable to tax on any receipts from its members.

Sub-clause (5) implements recommendation No. 41 and also provides against the same item of expenditure being allowed twice in computing the assessable income.

Clause 12.—*Sub clause (i)*—see notes under sub-clause (ii) of clause 9.

Sub-clause (ii) see notes to clause 11, sub-clause (1)(i).

Sub-clause (iii) implements recommendation No. 41.

Clause 13 inserts a new section 12AA relating to the assessment of income from royalties or copyrights for literary or artistic work.

The section is intended to give some relief to authors, painters, etc., in respect of their income from works on which they have spent more than 12 months or more than 24 months by providing for such income being spread over 2 years or 3 years respectively.

Clause 14 implements recommendation No. 69 and also makes a similar provision regarding trading debts or losses recovered in subsequent years.

Clause 15 gives effect to recommendations Nos. 21 and 22 and makes it clear that in the case of a member of a family, only that maintenance allowance is exempt which is out of the income of the family. It also makes an amendment necessitated by federal financial integration.

Clause 16 restricts the exemption given in respect of life insurance premiums to premiums paid for securing a capital sum on death and also makes an amendment consequent to the amendment of section 7 of the Act (see clause 8).

Clause 17 amends section 15C so as to allow the benefit of exemption to industrial undertakings which commence production before the 31st March, 1954. It also extends the exemption to smaller industries which employ 25 persons or more. The period of exemption has also been extended so that each undertaking which is entitled to exemption gets it for five assessment years.

Clause 18 amends section 16 dealing with inclusions and exclusions in computing the total income.

Sub-clause (a) (i) gives effect to recommendation No. 168 in a modified form and provides for the income exempt from tax under sections 25 (3) and 25 (4) being taken into account for the purpose of computing the rate of income-tax payable.

Sub-clause (a) (ii) allows in computing the income of a partner, deduction of interest on the capital borrowed by him for investment in the firm and salary paid by him to an employee engaged to assist him in the business of the firm.

Sub-clause (a) (iii) seeks to close up a loophole of evasion by providing for the property settled and all the transactions connected therewith, being treated as the property or transactions of the settler.

Sub-clause (c) gives effect to recommendations Nos. 77 and 78 and also makes it clear that section 16 (3) applies to the husband or the wife as the case may be.

Clause 19 amends section 18 relating to deduction of tax at source.

Sub-clauses (a) to (e), (g) and (h) are consequential to the amendment of section 17 (1) of the Income-tax Act by the Indian Finance Act, 1951.

Sub-clause (c) also relieves the hardship caused by requiring deduction of tax from the entire amount paid to a non-resident, when only a portion thereof may be liable to tax in the hands of the non-resident as "income".

Sub-clause (f) gives effect to recommendation No. 81 by adding a proviso to section 18 (5) and also secures that credit for tax is given only where the tax has been credited to Government account.

Sub-clause (i) makes the private employer himself or in the case of a company or co-operative society, the company or society itself and its principal officers responsible for the reduction of tax and for any consequences of non-deduction. This is necessary to safeguard Government revenue.

Clause 20.—*Sub-clauses (a) and (b)* are consequential to the variation of the taxable minimum.

Sub-clause (c) enables the Income-tax Officer to call for a statement of assessee's current year's income and his accounts if he has reasons to believe that the tax which the assessee has been required to pay or has offered to pay is less than the tax which he ought to pay.

Clause 21.—A new section 20B is inserted in order to ensure the super-tax payable on interest on securities and dividends is not evaded. If a person who draws the interest or dividend claims that he is drawing it on behalf of another person, he is required to disclose the particulars of the persons on whose behalf he is drawing the interest.

Clause 22.—The amendment made by this clause is consequential to the amendment of section 7 of the Income-tax Act [see notes to sub-clause (i) of clause 8].

Clause 23 amends section 22 relating to the submission of return of total income and accounts.

Sub-clauses (a) and (b) implement recommendation No. 87.

Sub-clause (c) requires a person who has sustained a loss, which can be carried forward to subsequent years to make a return of that loss, within the

period prescribed under section 22 (1). It is necessary to ascertain the quantum of loss in the year in which it is incurred and not in a later year in which it can be set off, as by that time the evidence for proving the loss may not be available. This sub-clause also implements recommendation No. 95 by requiring that the return of income filed by an assessee liable to super-tax should be accompanied by audited statements.

Sub-clause (d) gives effect to a part of recommendation No. 93. It also empowers the Income-tax Officer to call for information which is in the possession of the assessee and which the Income-tax Officer considers material for the purposes of the assessment.

Clause 24 amends section 23 relating to procedure for assessment.

Sub-clause (b) inserts a new sub-section to make it clear that the bonus of proving the correctness of his return is on the assessee.

Clause 25 amends section 23A dealing with the compulsory distribution of dividends in the case of private companies.

Sub-clause (a) gives effect to recommendations Nos. 30 to 33 and provides that in determining the amount available for distribution, there shall be deducted obligatory charges, which may not have been allowed in computing the assessable income of the company and amounts transferred to reserves by a Banking company under section 17 of the Banking Companies Act. Private investment trust companies would be required to distribute 100 per cent. of their profits. The sub-clause also brings the definition of a company, in which the public are substantially interested into line with that adopted in the Finance Acts since 1949. In a genuine public company more than 50 per cent. of the voting power must be with the public. Non-resident companies are not affected by this amendment as section 23A is not applicable to them.

Sub-clause (c) gives effect to recommendation No. 85.

Clause 26 amends section 24 relating to the set off of losses in computing the total income:

Sub-clause (a), besides making a clarificatory amendment, inserts a new proviso, which secures that speculation losses would be set off against speculation profits only and not against any other income. This would check a tendency on the part of assesseees to claim speculation losses but not to admit speculation profits.

Sub-clause (b)(iii) implements the principle underlying recommendation No. 7 regarding foreign losses of companies treated as resident. It also provides for the allocation of the loss carried forward from one year to another between the various businesses to which the loss pertains. This latter provision is, in essence, clarificatory.

Sub-clause (c) treats life insurance business and speculation business as distinct and separate businesses for the purposes of the Act and also defines a speculative transaction.

Clause 27 makes a clarificatory amendment giving effect to recommendation No. 12.

Clause 28 amends section 25 of the Act.

Sub-clause (d) provides for the benefit of sub-sections (3) and (4) of section 25 of the Act being given only to a person who has given notice of the discontinuance or succession within one year thereof.

The other sub-clauses are merely clarificatory in nature.

Clause 29 gives effect to recommendation No. 85 [see also clause 25 (c)] by inserting a new section 25B dealing with the liability of liquidators. The clause safeguards the interests of revenue by requiring the liquidator to pay the amount notified by the Income-tax Officer as the tax payable presently or in future by the company.

Clause 30 enables the registration already granted to a firm being cancelled if it is found that the particulars furnished in the application for registration are incorrect. It also enables the assessment in such cases being made on the basis of an unregistered firm subject to the provisions of sections 33B and 34.

Clause 31 deletes section 27 of the Act as it serves no useful purpose since an appeal has already been provided against an *ex parte* assessment and the assessee can obtain all the relief he requires including the setting aside of the assessment, in that appeal.

Clause 32 amends section 28 relating to imposition of penalties and gives effect to recommendations Nos. 103 to 114 and 116. The clause recognises the degree of delinquency involved in the various defaults and concealments by providing a different penalty for different types of default or concealment. The clause further provides for the imposition of a penalty on a person, who abets the commission of any default or concealment. The clause also enables the publication of the names and the particulars of persons on whom a penalty is imposed.

Clause 33 amends section 30 relating to appeals.

Sub-clause (a) redrafts sub-section (1) for the sake of clarity. The sub-section as re-drafted—

(i) gives effect to recommendation No. 123 by providing an appeal against the Income-tax Officer's order under section 35;

(ii) implements recommendation No. 127 and extends the principle underlying this recommendation to appeals by residents;

(iii) secure that an appeal against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of an income-tax Officer does not lie to the Appellate Assistant Commissioner, (Provision has been made elsewhere for a direct appeal to the Tribunal); and

(iv) provides for concurrence of all the partners of firm as a condition precedent to an appeal preferred by an individual partner against the quantum of the firm's income or the allocation thereof between the partners.

Sub-clause (b) makes only a consequential amendment.

Clause 34.—Sub-clause (a) adds a condition precedent to the admission of additional grounds of appeal.

Sub-clause (b) gives effect to recommendation No. 129 and incorporates the principle regarding admission of fresh evidence contained in rules 27 and 28 of Order XLI of the Code of Civil Procedure.

Sub-clause (c) makes a clarificatory redraft.

Sub-clause (d) requires the Appellate Assistant Commissioner to state in his order precisely the relief granted and its effect on the assessment or on the orders appealed against (*cf.* rule 35 of Order XLI, Code of Civil Procedure).

Clause 35.—Sub-clause (a) provides for an appeal to the Appellate Tribunal against an order under section 28 passed by the Inspecting Assistant Commissioner or the Commissioner and against an order of assessment passed by an Inspecting Assistant Commissioner exercising the powers of an Income-tax Officer [*see* notes to clause 33, sub-clause (a)].

Sub-clause (c) gives effect to recommendation No. 156 regarding filing of cross objections.

Sub-clause (d).—The power to condone delay in the case of appeals against orders passed by an Inspecting Assistant Commissioner, exercising the powers of an Income-tax officer is excluded.

Sub-clause (e) secures that the Tribunal will serve a copy of its order on the parties and that the provisions of section 31 regarding the admission of

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fresh evidence, manner of disposal of appeals and clear specification of the relief granted, will apply the orders passed by the Tribunal.

Clause 36 makes it clear that the time limit for completion of assessments would not apply to an assessment or re-assessment found necessary in consequence of an appellate, revision or High Court or Supreme Court order.

Clause 37 secures that changes necessary in the assessments of partners consequent on the relief given to a firm on appeal, reference or revision, or changes necessary in the assessment of a person liable to excess profits tax or business profits tax consequent on the modification of such assessments, can be made under section 35.

Clause 38.—Section 37 of the Act is amended—

(i) to give power to all Income-tax Authorities (including Inspectors) to take evidence on oath, etc.,

(ii) to permit all the powers given by this section being exercised for all the purposes of the Act and not merely in connection with a particular assessment,

(iii) to enable the Income-tax authorities to impound books of account produced before them, and

(iv) to give power to the income-tax authorities and the Tribunal to deal with cases of "contempt" under the relevant provisions of the Criminal Procedure Code.

The clause also implements recommendations Nos. 93 and 141 and gives powers of search and seizure to income-tax authorities on the lines of section 6 (9) of the Taxation on Income (Investigation Commission) Act, 1947.

Clause 39 gives effect to recommendation No. 56 and the latter part of recommendation No. 82: The clause also provides for certain kinds of information being called for and for proper verification of statements furnished under this section.

Clause 40.—*Sub-clause* (i) provides for the assessment of the income of a private religious trust or endowment in the hands of the manager or *shebait* and is clarificatory. [See notes to clause (b)(iv).]

Sub-clause (ii) redrafts the first proviso to section 41 to make it clear that the maximum rate of income-tax is applicable income receivable on behalf of an artificial or juridical person such as a deity, and to income which is not specifically receivable on behalf of any individual, that is, income applied to the maintenance of buildings, monuments, etc.

Clause 41 amends section 42 dealing with income deemed to accrue or arise in India.

Sub-clause (a) makes a few changes consequential to the amendment of section 4 by clause 3 (a) (iii) and also gives effect to a part of recommendation No. 6 by clarifying that the agent is the statutory agent appointed under section 43 and that all the chargeable income of the non-resident can be assessed in his hand.

Sub-clause (b) gives effect to another part of recommendation No. 6 and empowers the Income-tax Officer to freeze, in advance of assessment, the assets of the non-resident in the hands of persons other than the statutory agent.

Sub-clause (c) redrafts sub-section (2) and omits reference to the category of "not ordinarily resident" persons. [See notes to clause 3 (a) (i) and clause 5.]

Sub-clause (d) will enable the Central Board of Revenue to prescribe by rules the proportion of profits that will be deemed to accrue or arise in India

according to the extent of operations carried out in India. The non-resident can thus readily ascertain the extent of his liability to tax.

Clause 42 gives effect to the principle of recommendation No. 28 and enables the tax due from any company being realised from its subsidiaries. In the case of a privately controlled company, provision has been made to realise the tax from its shareholders as well.

Clause 43 redrafts Chapter V-A so as to extend the procedure for assessment of profits and recovery of tax laid down in that Chapter with respect to tramp steamers, to aircraft operated by non-resident air transport concerns which have no regular offices or agencies in India. At present the tax due on the earnings of such aircraft is escaping tax. The assessment in the case of aircraft will be made by Customs officers instead of by Income-tax Officers as in the case of tramp steamers. The profits will be assumed provisionally to be 1/16th of the fare and freight earned by the aircraft, but the person concerned can claim that a regular assessment may be made on him in any assessment year, in which case necessary adjustments will be made.

Clause 44 makes certain amendments in section 44-D which are consequential to the abolition of the category of "not ordinarily resident" persons. [See notes to clause 3 (a) (i) and clause 5.]

Clause 45.—The Income-tax Investigation Commission found that influential persons held a large number of shares in several companies in fictitious names. While thus in virtual possession of the shares they are enabled to conceal their income and do not pay any tax on the income from the shares. A similar evasion is also practised by making deposits and loans in the names of fictitious persons. The proposed new section 44G will provide for the transfer of the shares, debentures, deposits, etc., to the Government, only after the taking of adequate steps in the matter, it is not possible to discover the true owner. Necessary safeguards are provided to enable the true owner to establish his claim, including safeguards by way of appeal, reference to a High Court, etc.

Clause 46 inserts a new section 45-A providing (in pursuance of a separate recommendation of the Commission *re. benami* transactions) for the recovery of tax from the ostensible or legal owner of assets, where the income from those assets or from dealings in those assets is included in the income of any person other than the ostensible owner. The liability of the legal owner is, of course, limited to the tax on the income from such assets. Notice of the assessment to the ostensible owner is a condition precedent to the recovery of tax from the assets.

Clause 47 amends section 46 relating to the mode and time of recovery of tax.

Sub-clause (a) enables the Income-tax Officer to publish the names and addresses of persons on whom penalties have been imposed for non-payment of tax.

Sub-clause (b) inserts a new sub-section (1B) enabling the tax assessed on a person and remaining unpaid being recovered from his legal representative, but the liability of the legal representative will be limited to the assets of the deceased in his hands.

Sub-clause (c) redrafts sub-section (5A) to enable the Income-tax Officer to investigate any objection raised to the attachment of a debt. The decision of the Income-tax Officer would be open to challenge in a court, but until the attachment is raised or modified either by the Income-tax officer or by the court, it will remain effective.

Sub-clause (d) inserts a new sub-section (5B) empowering the Income-tax Officer to attach by a notice the assets of a defaulting assessee where the

assets are placed for safe custody in the hands of another person, for example, a banking company.

Sub-clause (e) clarifies that the limitation of one year prescribed by sub-section (7) does not apply to the commencement of each mode of recovery prescribed by this section but only to the action taken in the first instance.

Clause 48 inserts a new section 46A which requires any person, who is not domiciled in India, or who, even if domiciled in India, has, in the opinion of an Income-tax authority, no intention of returning to India, to obtain a tax clearance certificate before leaving India. The provision is intended primarily to safeguard the interests of revenue. The Income-tax enactments of America, Australia, Ceylon, Pakistan and Iran contain similar provisions.

Clause 49 implements the concession announced by the Government of India in 1950, by amending section 49D, which deals with relief in respect of tax charged in a country with which there are no reciprocal arrangements for double taxation relief or any agreement for avoidance of double taxation. Under the amended section full credit (as opposed to credit for half the tax given under the present law) will be given for the foreign tax, up to the limit of the Indian tax, in respect of income doubly taxed, which does not arise and cannot be deemed to arise in India. Power is being taken to apply this relief, by notification, retrospectively to income arising in the United Kingdom, if the negotiations with that country for double taxation avoidance do not reach any satisfactory conclusion.

Clause 50 amends section 49E and enables the Income-tax Officer to set off the refund due to an assessee against any interest or penalty due by the assessee.

Clause 51 redrafts section 51. Clause (d) of the new section 51 implements recommendation No. 88 by making the wilful failure to make a voluntary return by persons whose income exceeds the taxable minimum by two thousand rupees punishable under this section. Clause (f) is consequential to clause 29. This section also provides for the imposition of a sentence of imprisonment in addition to fine.

Clause 52 redrafts section 52 and prescribes more deterrent punishment for a false verification in the returns and statements required to be furnished under the Act.

Clause 53 inserts a new section 52A providing for the punishment of abetment of offences under sections 51 or 52.

Clause 54 amends section 53 of the Act relating to prosecution and provides for prosecution being launched at the instance of the Appellate Tribunal or an Income-tax authority not below the rank of an Assistant Commissioner. The clause also provides that the offence cannot be compounded after the prosecution has been instituted.

Clause 55 amends section 54 to give effect to recommendations Nos. 117 to 119. The amended section 54 permits the disclosure of information in an assessee's record where it is necessary to do so either to verify the correctness of the assessee's statement or to enable proper legal or other proceedings being taken against him or any other person in certain cases.

The clause also implements recommendations Nos. 114 and 192 by permitting the disclosure of the particulars of persons, who have been penalized under the Act or have been guilty of evasion of tax, to the public and to other Government Departments. The disclosure to other Government Departments is with a view to prevent Government patronage being conferred on them.

Clause 56 gives effect to recommendation No. 75 by amending section 58C. The amended section 58C relaxes the conditions for recognition of provident fund and permits such funds to retain the accumulated balance due to an employee till it is actually required by the employee.

Clause 57 gives effect to recommendations Nos. 70 and 71 by amending section 58P and gives power to the Central Government to prescribe by rules the conditions to be fulfilled by recognised superannuation funds. A similar power exists in regard to recognised provident funds. The clause also inserts a new sub-section under which any rules of a recognised fund, which are repugnant to the provisions of the Act, will be of no effect.

Clause 58—Sub-clause (a) gives effect to recommendation No. 71 by amending section 58S. The amended section makes the contributions to a recognised superannuation fund liable to tax when they are paid out to the employee.

Sub-clause (b) adds a new sub-section providing for deduction of tax from the lumpsum paid to an employee in commutation of an annuity at a reduced rate.

Clause 59 gives effect to recommendations Nos. 70 and 72 and inserts a new section 58W which corresponds to section 58L of the Act pertaining to provident funds and empowers the Central Government to make rules.

Clause 60 amends section 59 of the Act.

Sub-clause (i) is consequential to the deletion of section 49 from the Act and the insertion of section 49AA.

Sub-clause (ii) inserts a new clause, which enables the Central Board of Revenue to make rules in respect of the grant of rewards to informers. The Income-tax Investigation Commission has, subsequent to the making of their report, recommended that the system of grant of rewards to informers may be tried, as it has been found successful in other countries.

Clause 61 inserts a new section 59A empowering the Central Government to tender immunity from prosecution to accomplices who are prepared to give evidence against an assessee. The new section corresponds to sections 6A and 6B of the Taxation on Income (Investigation Commission) Act, 1947.

Clause 62 amends section 61 relating to appearance by an authorised representative before Income-tax authorities, and the Appellate Tribunal. The amended section gives effect to recommendation No. 115 by providing for all income-tax practitioners being enrolled on registers maintained by Commissioners of Income-tax and by requiring them to conform to a code of conduct and discipline to be prescribed by rules made by the Central Board of Revenue.

Sub-clause (a)(i) amends the definition of 'lawyer' to exclude persons who are not entitled to appear in a civil or a criminal court.

Sub-clause (d) redrafts sub-section (3) for the sake of clarity and also disentitles certain categories of persons from appearing before Income-tax authorities.

Clause 63 amends section 63 relating to service of notices.

Sub-clause (a) provides for rules being made by the Central Board of Revenue in regard to service of notices. The intention is to adapt the modes of service prescribed by the Code of Civil Procedure to suit the requirements of the Income-tax Act.

Sub-clause (b) redrafts sub-section (2) and specifies clearly the individual to whom notices under the Act may be addressed. The sub-clause also gives effect to recommendation No. 169 in regard to service of notices in the case of a disrupted Hindu undivided family.

Clause 64 amends section 64 to make it clear that in the case of a discontinued business, profession or vocation, assessment may be made by the Income-tax Officer in whose jurisdiction the principal place of business was situate.

Clause 65 amends and redrafts section 66 of the Act relating to references to a High Court in regard to questions of law arising out of the order of the Tribunal. The amended section 66 makes the following changes in the existing law :—

(1) A separate fee of Rs. 100 is to be paid in respect of each appeal notwithstanding that a common order has been passed by the Tribunal in respect of several appeals.

(2) The reference to the High Court should be made by the Tribunal within 180 days of the receipt of the application by the Tribunal (recommendation No. 157 in a modified form).

(3) The Appellate Tribunal is given the power to condone the delay in the presentation of an application upto a limit of 15 days (recommendation No. 158 in a modified form).

(4) The Appellate Tribunal is empowered to make a direct reference to the Supreme Court where the question of law is important or where there is a conflict between two High Courts in regard to the question of law sought to be referred (recommendation No. 153).

(5) The jurisdiction in income-tax matters is confined to the seven old High Courts.

Clause 66 amends section 66A to secure that whenever the Judges hearing a reference are equally divided on a question it should be referred to one or more Judges and decided according to the decision of a majority of all the Judges who have heard the reference.

Clause 67 amends section 67 of the Act to provide that suits or other proceedings in any court are barred even where the suit or proceeding is to prevent the commencement or progress of any assessment under the Act. The amendment is necessitated by certain observations of the Supreme Court in the case of *State of Tripura vs. the Province of East Bengal, 1951, Income-tax Reports, page 132*.

Clause 68 amends section 67A and secures that the time requisite for obtaining a copy of the order is to be taken into account in computing the limitation only where a copy of the order is not served on the assessee under the provisions of the Act.

Clause 69 amends section 67B and provides for the provisional collection of income-tax on the basis of the rates prescribed by the Finance Bill. It would be administratively inconvenient if provisional assessments to income-tax have to be made by making laborious alternative calculations.

Clause 70 inserts a new section 67C, which provides that formal mistakes do not result in the whole assessment or proceedings being quashed on that ground alone.

Clause 71 amends the Schedule to the Act containing the rules for the computation of the profits and gains of insurance business.

Sub-clause (b)(i) clarifies that the valuation which is to form the basis of the computation is the valuation which is required to be furnished to the Controller of Insurance under the Insurance Act.

Sub-clause (b)(ii) implements recommendation No. 46 and permits an increased allowance on account of management expenses—15 per cent of renewal premiums against 12 per cent at present allowed.

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Sub-clause (c) implements recommendation No. 44 to the extent practicable by providing for a deduction of two-thirds of the bonus paid to policyholders as against half the bonus at present deducted.

Sub-clause (d) is, in essence, clarificatory. It provides for the applicability of rule 8 to all non-residents carrying on insurance business (not merely to companies as at present) and to both the methods of computation mentioned in rule 2.

NOTIFICATION *599*

No. L.D. 737—Legis. 3-51-18, dated Bangalore, 10th July 1951.

Ordered that the accompanying Displaced Persons (Temporary Relief from Indebtedness) Bill, 1951 (Central Bill No. 60 of 1951) published in the *Gazette of India*, Part II, Section 2, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

The following Bill was introduced in Parliament on the 9th June, 1951 :—

BILL No. 60 OF 1951.

A Bill to make certain temporary provisions for the relief of displaced persons from indebtedness pending further legislation relating thereto.

BE it enacted by Parliament as follows :—

1. *Short title, extent and duration.*—(1) This Act may be called the Displaced Persons (Temporary Relief from Indebtedness) Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall remain in force until the 31st day of March, 1952.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “debt” means any liability incurred before the 15th day of August, 1947, whether secured or unsecured or in cash or in kind, or payable presently or in future or under any decree or order of a civil or revenue court or otherwise, and includes any liability incurred after the said date, if the transaction out of which the subsequent liability is incurred is solely by way of renewal of any liability incurred before the said date, but does not include any liability the recovery of which is barred by limitation or which is otherwise irrecoverable under any law for the time being in force ;

(b) “displaced person” means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has, after the 1st day of March, 1947, left, or been displaced from, his place of residence in such area, and who has been subsequently residing in India, but does not include a banking company.

3. *Bar of fresh, and stay of pending, proceedings against displaced persons respecting debts*—(1) Notwithstanding anything contained in any other law for the time being in force, no civil or revenue court shall, during the period this Act remains in force, entertain any suit or other proceeding including any proceeding in execution of any decree or order of a civil or revenue court for the recovery of any debt against a displaced person.

(2) Every such suit or other proceeding pending immediately before the commencement of this Act before any civil or revenue court shall be stayed during the period this Act remains in force, and every attachment, injunction, order appointing receiver or other process made or issued in any such suit or other proceeding and subsisting immediately before such commencement shall cease to have effect.

Explanation.—For the purposes of this section, “proceeding” does not include an appeal or a review or revision against any decree or order of a civil or revenue court.

4. *Stay of insolvency proceedings*.—Notwithstanding anything contained in any other law for the time being in force, every proceeding under any law for the time being in force relating to insolvency pending against a displaced person in any civil court immediately before the commencement of this Act, whether on the application of a creditor or of a displaced person, shall be stayed during the period this Act remains in force.

5. *Instalment decrees*.—Where a decree passed in relation to a debt against a displaced person is payable by instalments and an instalment payable thereunder falls due during the period this Act remains in force, then, notwithstanding anything contained in such decree or any order relating thereto, the failure to pay such instalment shall not be deemed to be a default and any such instalment shall, in the absence of anything to the contrary contained in any other law for the time being in force, become payable within one month of the expiration of this Act.

6. *Release of displaced persons under detention in civil prisons*.—Notwithstanding anything contained in any other law for the time being in force, all displaced persons under detention at the commencement of this Act in any civil prison in execution of any decree or order of a civil or revenue court for the recovery of a debt shall be released.

7. *Computation of period of limitation*.—(1) In computing the period of limitation prescribed by the Indian Limitation Act, 1908 (IX of 1908), or any other law for the time being in force for the institution of a suit or other proceeding for the recovery of any debt in a civil or revenue court against a displaced person, the period during which this Act remains in force shall be excluded.

(2) In computing the period of twelve years prescribed by section 48 of the Code of Civil Procedure, 1908 (Act V of 1908), for the execution of any decree for the recovery of any such debt as is referred to in sub-section (1), the period during which this Act remains in force shall be excluded.

8. *Voluntary settlements not barred*.—Nothing contained in this Act shall be deemed to preclude any creditor from accepting payment under, or any adjustment in respect of, any debt voluntarily made by the displaced person.

STATEMENT OF OBJECTS AND REASONS.

Pending the preparation of a comprehensive Bill on the subject of relief to displaced persons in the matter of their pre-partition debts, the present Bill seeks to give temporary relief to such persons by barring fresh legal proceedings against them and staying pending proceedings. The clauses of the Bill are self-explanatory. The Bill, of course, does not prevent voluntary settlements between displaced persons and their creditors.

2. It is expected that the comprehensive Bill will be ready for introduction in Parliament during its next session.

AJIT PRASAD JAIN.

NEW DELHI;
The 7th June 1951.

M. N. KAUL,
Secretary.

NOTIFICATION. *602*

No. L.D. 738—Legis. 3-51-19, dated Bangalore, 10th July 1951.

Ordered that the accompanying Plantations Labour Bill, 1951 (Central Bill No. 59 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
 Secretary to Government,
 Law Department.*

BILL *No. 59 OF 1951.

A Bill to provide for the welfare of labour, and to regulate the conditions of work, in plantations.

BE it enacted by parliament as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Plantations Labour Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to all tea, coffee, rubber and cinchona plantations, but any State Government may, subject to the previous approval of the Central Government, by notification in the Official Gazette, apply it to any other class of plantations within that State.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “adolescent” means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) “adult” means a person who has completed his eighteenth year;

(c) “child” means a person who has not completed his fifteenth year;

(d) “day” means a period of twenty-four hours beginning at midnight;

(e) “employer”, when used in relation to a plantation, means the person who has the ultimate control over the affairs of the

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person, shall be deemed to be the employer in relation to that plantation;

(f) "plantation" means any land used or intended to be used for growing tea, coffee, rubber or cinchona which admeasures ten acres or more or whereon twenty or more persons are employed, or were employed on any day of the preceding twelve months, and in any State where the provisions of this Act have been applied by notification under sub-section (4) of section 1 to any other class of plantations, means also any land used or intended to be used for growing the plant mentioned in such notification and whereon twenty or more persons are employed, or were employed on any day of the preceding twelve months;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916) or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933);

(i) "wages" has the meaning assigned to it in clause (h) of section 2 of the Minimum Wages Act, 1948 (XI of 1948);

(j) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the State Government in relation to plantations in any area after such consultation as may be prescribed with reference to the plantations concerned in that area;

(k) "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include—

(a) a medical attendant at the plantation;

(b) any person whose monthly wages exceed two hundred rupees; or

(c) a person employed in a plantation primarily in a managerial or other supervisory capacity notwithstanding that his monthly wages do not exceed rupees two hundred;

(l) "young person" means a person who is either a child or an adolescent.

3. *Reference to time of day.*—In this Act, references to time of day are references to Indian Standard time being five and a half hours ahead of Greenwich Mean time:

Provided that for any area in which the Indian Standard time is not ordinarily observed, the State Government may make rules—

(a) specifying the area;

(b) defining the local mean time ordinarily observed therein; and

(c) permitting such time to be observed in all or any of the plantations situated in that area.

CHAPTER II

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INSPECTING STAFF.

4. *Chief Inspector and Inspectors.*—(1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector of plantations and so many duly qualified persons to be inspectors of plantations subordinate to the chief inspector as it thinks fit.

(2) Subject to such rules as may be made in this behalf by the State Government, the chief inspector may declare the local area or areas within which, or the plantations with respect to which, inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

5. *Powers and functions of inspectors.*—Subject to any rules made by the State Government in this behalf, an inspector may within the local limits for which he is appointed—

(a) make such examination and enquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of any plantation;

(b) with such assistants, if any, as he thinks fit, enter, inspect and examine any plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed;

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

6. *Facilities to be afforded to inspectors.*—Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

7. *Certifying surgeons.*—(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such plantation or class of plantations as it may assign to them respectively.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(a) the examination and certification of workers;

(b) the exercise of such medical supervision as may be prescribed where adolescents and children are, or are to be, employed in any work in any plantation which is likely to cause injury to their health.

CHAPTER III 605

PROVISIONS AS TO HEALTH

8. *Drinking water*.—In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

9. *Conservancy*.—(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

10. *Medical facilities*.—(1) In every plantation there shall be provided and maintained so as to be readily available during all working hours such medical facilities for the workers as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery, the chief inspector may certify the costs to be recovered to the collector, who may recover the amount as an arrear of land revenue.

CHAPTER IV

WELFARE

11. *Canteens*.—(1) The State Government may make rules requiring that in every plantation wherein two hundred and fifty workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which the canteen shall be provided ;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens ;

(c) the food-stuffs which may be served therein and the charges which may be made therefor ;

(d) the constitution of a managing committee for the canteen and the representation of the workers in the management of the canteen ;

(e) the delegation to the chief inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

12. *Creches*.—(1) In every plantation wherein more than one hundred women workers are employed or were employed on any day of

the preceding twelve months, there shall be provided and maintained by the employer suitable rooms for the use of children of such women who are below the age of six years.

(2) Such rooms shall—

- (a) provide adequate accommodation;
- (b) be adequately lighted and ventilated;
- (c) be maintained in a clean and sanitary condition; and
- (d) be under the charge of a woman trained in the care of children and infants.

(3) The State Government may make rules prescribing the location and the standards of such rooms in respect of their construction and accommodation and the equipment to be provided therein.

13. *Recreational facilities.*—The State Government may make rules requiring every employer to make provision in his plantation for such recreational facilities for the workers and children employed therein as may be prescribed.

14. *Educational facilities.*—Where the children between the ages of six and twelve of workers employed in any plantation exceed fifty in number, the State Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

15. *Housing facilities.*—It shall be the duty of every employer to provide and maintain for every worker and his family residing in the plantation necessary housing accommodation.

Explanation.—For the purpose of this Chapter, “family” means the worker’s wife, children, aged parents, and minor sisters and brothers residing with and wholly dependent upon the worker.

16. *Power to make rules relating to housing.*—The State Government may make rules for the purpose of giving effect to the provisions of section 15 and, in particular, providing for—

- (a) the standard and specification of the accommodation to be provided;
- (b) the selection and preparation of sites for the construction of houses and the size of such plot;
- (c) the constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;
- (d) the fixing of rent for the housing accommodation provided for workers;
- (e) the allotment to workers of housing accommodation and the eviction of workers therefrom;
- (f) access to the public to those parts of the plantation wherein the workers are housed.

CHAPTER V 608

HOURS AND LIMITATION OF EMPLOYMENT

17. *Weekly hours.*—Save as otherwise expressly provided in this Act, no adult worker shall be required or allowed to work on any plantation in excess of fifty-four hours a week and no adolescent or child for more than forty hours a week.

18. *Weekly holidays.*—(1) The State Government may by rules made in this behalf—

(a) provide for a day of rest in every period of seven days which shall be allowed to all workers ;

(b) provide for payment for work done on a day of rest at a rate not less than the overtime rate prevailing in the area, and where there is no such rate at such rate as may be fixed by the State Government in this behalf.

(2) Notwithstanding anything contained in clause (a) of sub-section (1) where a worker is willing to work on any day of rest which is not a closed holiday in the plantation, nothing contained in this section shall prevent him from doing so :

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

Explanation 1.—Where on any day a worker has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day, may, if he so desires, be treated as his day of rest for the relevant period of seven days within the meaning of sub-section (1).

Explanation 2.—Nothing contained in this section shall apply to any worker whose total period of employment including any day spent on leave is less than six days.

19. *Daily intervals for rest.*—The period of work on each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest for at least half an hour.

20. *Spread-over.*—The period of work of an adult worker in a plantation shall be so arranged that inclusive of his interval for rest under section 19 it shall not spread over more than twelve hours including the time spent in waiting for work on any day.

21. *Notice of period of work.*—(1) There shall be displayed and correctly maintained in every plantation a notice of periods of work in such form and manner as may be prescribed showing clearly for every day the periods during which the workers may be required to work.

(2) Subject to the other provisions contained in this Act, no worker shall be required or allowed to work in any plantation otherwise than in accordance with the notice of periods of work displayed in the plantation.

(3) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the day's work.

22. *Prohibition of employment of young children.*—No child who has not completed his twelfth year shall be required or allowed to work in any plantation.

23. *Night work for women and children.*—Except with the permission of the State Government, no woman or child worker shall be employed in any plantation otherwise than between the hours of 6 A.M. and 7 P.M.;

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation.

24. *Non-adult workers to carry tokens.*—No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any plantation unless—

(a) a certificate of fitness granted with reference to him under section 25 is in the custody of the employer; and

(b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

25. *Certificate of fitness.*—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work, examine such person and ascertain his fitness for work either as a child or as an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

26. *Power to require medical examination.*—An inspector may, if he thinks necessary so to do, cause any young person employed in a plantation to be examined by a certifying surgeon.

CHAPTER VI

LEAVE WITH WAGES

27. *Annual leave with wages.*—(1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of—

(a) if an adult or adolescent, at the rate of one day for every 30 days of work performed by him, and

(b) if a child, one day for every twenty days of work performed by him.

Provided that a period of leave shall be inclusive of any holiday which may occur during such periods.

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days.

28. *Wages during leave period.*—(1) For the leave allowed to a worker under section 27, he shall be paid at the rate equal to the daily average of his total full-time wages, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A worker who has been allowed leave for any period less than four days in the case of an adult and five days in the case of a child under section 27 shall, before his leave begins, be paid his wages for the period of the leave allowed.

29. *Sickness and maternity benefits.*—(1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer—

(a) in the case of sickness certified by a qualified medical practitioner, sickness allowance, and

(b) if a woman, in the case of confinement or expected confinement, maternity allowance,

at such rate, for such period and at such intervals as may be prescribed.

(2) The State Government may make rules regulating the payment of sickness or maternity allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

CHAPTER VII

PENALTIES AND PROCEDURE

30. *Obstruction.*—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under

this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

31. *Use of false certificate of fitness.*—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 25, a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

32. *Contravention of provisions regarding employment of labour.*—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. *Other offences.*—Whoever contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

34. *Enhanced penalty after previous conviction.*—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

35. *Exemption of employer from liability in certain cases.*—Where an employer charged with an offence under this Act, alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have on giving to the prosecutor in this behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that—

(a) he has used due diligence to enforce the execution of the relevant provisions of this Act; and

(b) that the other person committed the offence in question without his knowledge, consent or connivance the said other person shall be convicted of the offence and shall be liable to

the like punishment as if he were the employer and the employer shall be acquitted :

Provided that—

(a) the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges to be the actual offender and by the prosecutor, and

(b) If, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

36. *Cognizance of offences.*—No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the chief inspector and no court inferior to that of a presidency magistrate or a magistrate of the second class shall try any offence punishable under this Act.

37. *Limitation of prosecutions.*—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector :

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII

MISCELLANEOUS

38. *Power to give directions.*—The Central Government may give directions to the Government of any Part A State or Part B State as to the carrying into execution in the State of the provisions contained in this Act :

39. *Power to exempt.*—The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act :

Provided that in the case of a State Government, other than the Central Government, no such exemption shall be granted except with the previous approval of the Central Government.

40. *General power to make rules.*—(1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act :

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897) shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

(a) the qualifications required in respect of the chief inspector and inspector;

(b) the powers which may be exercised by inspectors and the areas in which and the manner in which such powers may be exercised;

(c) the medical supervision which may be exercised by certifying surgeons;

(d) the examination by inspectors or other persons of the supply and distribution of drinking water in plantations;

(e) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which such appeals may be preferred;

(f) the time within which housing, recreational, educational or other facilities required by this Act to be provided and maintained may be so provided;

(g) the types of latrines and urinals that should be maintained in plantations;

(h) the medical, recreational and educational facilities that should be provided in plantations;

(i) the form and manner in which notices of periods of work shall be displayed and maintained; and

(j) the registers which should be maintained by employers and the returns whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act.

(3) All rules made under this Act shall, if made by any Government, other than the Central Government, be subject to the previous approval of the Central Government.

STATEMENT OF OBJECTS AND REASONS.

In spite of the fact that the plantation industry provides employment for more than a million workers, there is at present no comprehensive legislation regulating the conditions of labour in the industry. The Tea Districts Emigrant Labour Act, 1932, which applies only to Assam, regulates merely the conditions of recruitment of labour for employment in the tea gardens of Assam. The Workmen's Compensation Act, 1923, which applies to estates growing cinchona, coffee, rubber or tea also does not confer any substantial benefit on plantation labour as accidents in plantations are few. The other Labour Acts, like the Payment of Wages Act, 1936, the Industrial Employment Standing Orders Act, 1946 and the Industrial Disputes Act, 1947 benefit plantation labour only to a

very limited extent. In its report the Labour Investigation Committee observed "that as the conditions of life and employment on plantations were different from those in other industries, it would be very difficult to fit plantation labour in the general framework of the Industrial Labour Legislation without creating serious anomalies" and recommended a plantation Labour Code covering all plantation areas.

2. The present Bill, drafted as an All-India measure, seeks to regulate the conditions of plantation labour generally. It applies in the first instance to tea, coffee, rubber and cinchona plantations, but the State Government may apply it to any other plantation. Provision is made in the Bill for assuring to the worker reasonable amenities, as for example, the supply of wholesome drinking water or suitable medical and educational facilities or provision for canteens and creches in suitable cases, or provision for a sufficient number of latrines and urinals separately for males and females. Housing accommodation is also to be provided for every worker and standards and specifications of such housing accommodation will be prescribed after due consultation. The Bill also regulates the working hours of workers employed in the plantations.

3. Children under 12 are prohibited from employment in any plantation and State Governments are empowered to make rules regulating the payment of sickness or maternity benefits.

4. Necessary provision is made in the Bill for the appointment of a suitable inspecting, medical or other staff for the purpose of securing the implementation of the various provisions in the Bill.

JAGJIVAN RAM.

NEW DELHI;

The 5th June, 1951.

NOTIFICATION.

No. L.D. 739—Legis. 3-51-20, dated Bangalore, the 10th July 1951.

Ordered that the accompanying Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill 1951, (Central Bill No. 58 of 1951) published in the *Gazette of India*, Part II, Section 2, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

The following Bills were introduced in Parliament on the 7th June, 1951:—

BILL No. 58 OF 1951

A Bill to declare, in pursuance of clause (3) of article 286 of the Constitution, certain goods to be essential for the life of the community.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1951.

2. Declaration of certain goods to be essential for the life of the community.—The goods specified in the Schedule are hereby declared to be essential for the life of the community.

3. Regulation of tax on sale or purchase of essential goods.—No law made after the commencement of this Act by the legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any goods declared by this Act to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.

THE SCHEDULE

(See section 2)

Goods declared essential for the life of the community.

1. Cereals and pulses in all forms, including bread and flour, including atta, maida, suji and bran (except when any such article is sold in sealed containers).
2. Green or dried vegetables and flower seeds, bulbs and plants and fresh and dried fruits, other than medical preparations (except when any such article is sold in sealed containers).
3. Fresh milk, whole or separate, and milk products.
4. Salt.
5. Coarse and medium handloom and mill-made cotton cloth and handloom woollen cloth.
6. Fertilizers and agricultural machinery and implements.
7. Raw cotton, including ginned and un-ginned cotton or kapas or cotton thread, cotton seed, raw jute and sugar-cane.
8. Coal, including coke and other derivatives, petroleum and petroleum products, including motor spirit and electrical energy, except energy intended for domestic use.
9. Iron and steel.

STATEMENT OF OBJECTS AND REASONS.

Article 286(3) of the Constitution provides that—

“No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.”

A list of goods essential for the life of the community for the purpose of the above mentioned provisions has accordingly been drawn up and the Bill provides that the imposition, after the enactment of the Bill, of a sales or purchase tax on these goods should be reserved for the consideration of the President. The Bill, if enacted, may help to achieve a certain measure of uniformity in the taxes, and also prevent essential goods being unduly taxed.

C. D. DESHMUKH.

NEW DELHI;

The 2nd June, 1951.

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PART IV

Section I-C.

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 906.—Legis. 5-51-33, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1152, dated the 29th June 1951 of the Ministry of Rehabilitation amending the Permit System Rules, 1949, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

New Delhi, the 29th June 1951.

S.R.O. 1152.—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XVIII of 1949), the Central Government hereby directs that the following further amendments shall be made in the Permit System Rules, 1949, namely:—

In rule 5 of the said rules—

(a) the proviso to clause (iv) shall be omitted,

(b) the following proviso shall be added at the end, namely:—

“Provided that in the Presidency towns of Bombay, Calcutta and Madras the powers conferred by clauses (iii) and (iv) may be exercised by the Commissioner of Police or a Deputy Commissioner of Police.”

[No. III/PMT (X-125)/(50-N)(11).]

V. D. DANTYAGI, Joint Secy.

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NOTIFICATION. 618

No. L.D. 907—Legis. 5-51-34, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1157, dated the 23rd July 1951, of the Ministry of Labour amending the Mines Creche Rules, 1946, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LABOUR.

New Delhi, the 23rd July 1951.

S.R.O. 1157.—In exercise of the powers conferred by clause (bb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government hereby directs that the following amendments shall be made in the Mines Creche Rules, 1946, the same having been published as required by sub-section (1) of section 31 of the said Act, namely:—

In the said Rules, to clause (a) of rule 3, the following provisos shall be added, namely:—

“Provided that where the competent authority is of the opinion that the situation, nature and extent of the workings or other places where women are employed are such as to render compliance with the provisions of the Rules not reasonably practicable, the competent authority may by order in writing exempt any owner of a mine from the provisions of the rule for such period as may be specified in the order.

Provided further that where an exemption is granted under this rule the competent authority may require, within such period as may be specified in the order, a suitable room or rooms with an attendant and other necessary equipments to be provided and maintained at or near any working place or part of the mine.”

[No. M. 41 (22) 50.]

P. N. SHARMA, Under Secy.

NOTIFICATION.

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No. L.D. 908—Legis. 6-51-23, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1135, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF FINANCE (REVENUE DIVISION).

CUSTOMS.

New Delhi, the 28th July 1951.

S.R.O. 1135.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby directs that no person shall except with the general or special permission of the Reserve Bank of India take or send out to any place outside India by post or otherwise any security as defined in clause (k) of section 2 of the Foreign Exchange Regulation Act, 1947 (VII of 1947).

[No. 60.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 909—Legis. 6-51-24, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1136, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and

Secretary to Government,

Law Department.

GOVERNMENT OF INDIA. *221*
MINISTRY OF FINANCE (REVENUE DIVISION).

CUSTOMS.

New Delhi, the 28th July 1951.

S.R.O. 1136.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby prohibits the export otherwise than by post of any goods either directly or indirectly to any place outside India other than any of the countries or territories in the Schedule annexed to this order unless a declaration is furnished by the exporter to the Collector of Customs or to such other person as the Reserve Bank may specify in this behalf that an amount representing the full export value of the goods has been or will be disposed of in a manner and within a period specified by the Reserve Bank.

Provided that this prohibition shall not apply to the export of—

1. Samples and personal effects, whether accompanied or unaccompanied of travellers;
2. Ships, stores, transhipment cargo and goods shipped under the orders of the Central Government or of such officers as may be appointed by the Central Government in this behalf or of the military, naval or air force authorities in India for military, naval or air force requirements.

SCHEDULE.

Nepal,

Tibet

French territories in India

Portuguese territories in India.

[No. 61.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 910—Legis. 6-51-25, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1137, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
 Secretary to Government,
 Law Department.*

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE (REVENUE DIVISION)

CUSTOMS.

New Delhi 28th July 1951.

S.R.O. 1137.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby prohibits the export by post of any goods either directly or indirectly to any place outside India other than any of the countries or territories in the schedule annexed to this order unless a declaration countersigned by the Reserve Bank of India or by a bank authorised to deal in the foreign currency of the country of destination is furnished by the exporter to the Postal Authorities at the time of the despatch that an amount representing the full export value of the goods has been or will be disposed of in a manner and within a period specified by the Reserve Bank.

Provided that this prohibition shall not apply :

- (1) Where the postal packet is covered by a certificate issued by the Reserve Bank or by an authorised dealer that the export of the parcel does not involve any transaction in foreign exchange.
- (2) Where the postal packet is accompanied by a declaration by the sender that the contents of the parcel are less than Rs. 50 in value and that the despatch of the parcel does not involve any transaction in foreign exchange.

SCHEDULE.

Nepal,
Tibet,

French territories in India.
Portuguese territories in India.

[No. 62.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 911—Legis. 6-51-26, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1150, dated the 25th July 1951 from the Ministry of Food and Agriculture under the Destructive Insects and Pests Act, 1914, amending the late Department of Education, Health and Lands Notification No. F. 50-13 (20)/39-A, dated the 20th November 1940, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

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GOVERNMENT OF INDIA.
MINISTRY OF FOOD AND AGRICULTURE.

(AGRICULTURE).

New Delhi, the 25th July 1951.

S.R.O. 1150.—In exercise of the powers conferred by sections 4A and 4D of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the rules published with the notification of the Government of India in the late Department of Education, Health and Lands No. F. 50-13 (20)/39-A, dated 20th November 1940, namely :

In the said rules—

(1) In the preamble and in the rule 1 for the words "United Provinces, the North-West Frontier Province, the Province of Madras, West Bengal, Assam and Orissa and British Baluchistan" the words "Uttar Pradesh, the States of Madras, West Bengal, Assam and Orissa" shall be substituted.

(2) In the preamble for the words "British India" the word "India" shall be substituted.

(3) For the words "Province" and "Provincial" wherever they occur in the said notification, the word "State" shall be substituted.

(4) In rule 3 the word "British" shall be omitted.

(5) In the entries under the Note at the end of the Notification.—

(a) Items (c) and (e) shall be omitted.

(b) In item (a) for the word "Lyallpur" the word "Jullundur" shall be substituted.

(c) In item (b), for the words "United Provinces" the words "Uttar Pradesh" shall be substituted.

[No. F. 6-11/51-Dte. I.]

J. V. A. NEHEMIAH, Dy. Secy.

NOTIFICATION.

No. L.D. 919—Legis. 5-51-35, dated Bangalore, 24th August 1951.

Ordered that notification No. S.R.O. 801, dated the 16th May 1951 of the Ministry of Labour, amending the Minimum Wages (Central) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA. 624

MINISTRY OF LABOUR.

NOTIFICATION

New Delhi, the 16th May 1951.

S.R.O. 801.—In exercise of the powers conferred by Section 30 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby makes the following amendments to the Minimum Wages (Central) Rules, 1950, the same having been previously published as required by the said section, namely:—

In the said Rules:—

(i) In clause (i) of sub-rule (1) of rule 21, after the words "shall be paid", the words "on a working day" shall be inserted.

(ii) In rule 24 after sub-rule (4), the following sub-rule shall be added; namely

"(5) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948".

(iii) In rule 25 after sub-rule (2), the following sub-rule shall be added; namely

"(3) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948."

[LWI-24(16).]

P. N. SHARMA,

Under Secy.

NOTIFICATION.

No. L.D. 924—Legis. 5-51-36, dated Bangalore, 25th August 1951.

Ordered that the Notifications No. S.R.O. 328 and 329, dated the 11th August 1951, of the Ministry of Defence amending the Territorial Army Rules, 1948, published in the *Gazette of India*, Part II, Section 4, dated the 11th August 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA. 625

PART II.—Section 4.

Statutory Rules and Orders issued by the Ministry of Defence.

MINISTRY OF DEFENCE.

New Delhi, the 11th August 1951.

S.R.O. 328.—In exercise of the powers conferred by section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government hereby directs that the following further amendments shall be made in the Territorial Army Rules 1948, namely :—

In the table annexed to sub-rule (1) of rule 15 of the said Rules, in the second column, under the heading "Authority competent to authorise discharge of enrolled person"

For the entry against "Clause (iii) of sub-rule (b) of rule 14." the following shall be substituted, namely :—

"At any time during the enrolled person's first two years of training if he is unlikely to become an efficient soldier, or is untraceable; or does not report for training for a period of one year, or in the case of an unattested recruit at his own request, the Commanding Officer; in all other cases, the Sub-Area Commander."

(Case No. 38749/GS/TA-3).

S.R.O. 329.—In exercise of the powers conferred by section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government hereby directs that the following further amendment shall be made to the Territorial Army Rules, 1948, namely :—

To rule 1 of the said rules, the words "They extend to the whole of India." shall be *added* at the end.

(Case No. F.200/51/D/GS.)

H. M. Patel, Secy.

NOTIFICATION. 620

No. S.D. 8563—C. 26-51-14, dated Bangalore, 22nd August 1951.

The following notification No. F. 16-11—51-EP, dated 27th July 1951, issued by the Government of India, Ministry of Food and Agriculture (Agriculture), is republished for the information of the public:—

No. F. 16-11—51-EP.

GOVERNMENT OF INDIA.

MINISTRY OF FOOD AND AGRICULTURE (AGRICULTURE).

New Delhi, the 27th July 1951.

NOTIFICATION.

In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that no order made or deemed to be made under the said Act or under any corresponding law in force in a Part 'B' State shall have effect so as to prohibit or restrict the movement of edible oilseeds and edible oils from any place in a State to any other place within or outside the State or so as to regulate or control the price, production, movement or distribution thereof in any manner whatsoever.

VISHNU SAHAY,

Secretary to the Government of India.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*

NOTIFICATION.

No. C. 783—Co. 40-50-57, dated Bangalore, 23rd—24th August 1951.

Ordered that the accompanying notifications Nos. 15 (5) PC—50—Pt. 1, 15 (5) PC—50—Pt. 2 and 15 (5) PC—50—Pt. 3 each dated the 23rd July 1951 of the Government of India, Ministry of Commerce and Industry, under the Supply and Prices of Goods Act, 1950 (LXX of 1950), be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*

GOVERNMENT OF INDIA. 627

MINISTRY OF COMMERCE AND INDUSTRY.

NOTIFICATIONS.

New Delhi, the 23rd July 1951.

No. 15 (5) P.C. 50—Pt.1—In exercise of the powers conferred by sections 4, 7, 9, 10 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, namely—

In sub-clause (i) of clause (b) of the said notification, the following sentence shall be added at the end, namely:—

“A copy of the statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf.”

P. S. SUNDARAM

Under Secretary to the Govt. of India.

No. 15 (5)—P.C.—50—Pt.2—In exercise of the powers conferred by sections 7, 13 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 700, dated the 30th September, 1950, namely:—

In clause (b) of the said notification, the following shall be added at the end after the word ‘and’, namely:—

“A copy of such statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf; and”

P. S. SUNDARAM,

Under Secretary to the Govt. of India.

No. 15 (5) P.C.—50—Pt.3—In exercise of the powers conferred by sections 7 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. S.R.O. 971, dated the 25th November 1950, namely:—

The following shall be added to the said notification at the end, namely:—

“A copy of such declaration shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf.”

P. S. SUNDARAM,

Under Secretary to the Govt. of India.

NOTIFICATION. 628

No. D. 2448—I.W. 21-51-7, dated Bangalore, 25th—28th July 1951.

The Iron and Steel (Control of Production and Distribution) Order, 1941, and the Iron and Steel (Scrap Control) Order, 1943, of the Central Government the operation of which was extended to the Mysore State by Notifications No. I (1)-4 (62) dated the 12th September 1950 issued by the Government of India, Ministry of Industry and Supply, are hereby republished for the information of registered dealers in Iron and Steel and the general public.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*

GOVERNMENT OF INDIA.

MINISTRY OF INDUSTRY AND SUPPLY.

Notification.

Simla, the 26th July 1941.

No. 315. In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, the Central Government is pleased to make the following Order:—

Iron and Steel (Control of Production and Distribution) Order, 1941.

1. *Short title, extent and commencement.*—(1) This order may be called the Iron and Steel (Control of Production and Distribution) Order, 1941.

(2) It extends to the whole of India except the State of Jammu and Kashmir

(3) It shall come into force on the 1st August 1941.

2. *Definitions.*—In this Order, unless there is anything repugnant in the subject or context:—

(a) "Controller" means the person appointed as Iron and Steel Controller by the Central Government and includes any person exercising, upon authorisation by the Central Government, all or any of the powers of the Iron and Steel Controller;

(b) "Producer" means a person carrying on the business of manufacturing iron and steel;

(c) "Registered Producer" means a producer who is registered as such by the Controller;

(d) "Stockholder" means a person holding stocks of Iron or Steel for sale who is registered as a stockholder by the controller;

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(e) "Controlled Stockholder" means a stockholder appointed by the controller to hold stocks of iron or steel under such terms and conditions as he may prescribe from time to time;

(f) "Pressure Pipes" include all Pipes and Tubes of 1/8" nominal bore and above, which will withstand or may be used for a working pressure of 25 lbs. per square inch and above.

3. (1) *Application of Order*.—The provisions of this Order shall apply to all iron or steel of the categories specified in the second schedule to this Order.

(2) A certificate signed by the Controller or by any officer authorised by him in this behalf, in respect of any category of iron or steel, shall be conclusive proof that it is any article to which this order is applicable.

4. *Acquisition*.—No person shall acquire or agree to acquire any iron or steel from a Producer or Stockholder except under the authority of and in accordance with the conditions contained or incorporated in a general or special written order of the Controller.

5. *Disposal*.—No producer or stockholder shall dispose of or agree to dispose of or export or agree to export from any place to which this order extends any iron or steel except, in accordance with the conditions contained or incorporated in a special or general written order of the Controller.

6. *Carriers, warehouseman and servants*.—For the purposes of clauses 4 and 5 any acquisition by or disposal to a carrier or warehouseman or servant acting in the ordinary course of his business or employment as such of any iron or steel shall be deemed to be only an acquisition by or disposal to the person on whose behalf or to whose order the carrier, warehouseman or servant so acquires that steel, and any acquisition from or disposal by a carrier or warehouseman or servant acting as aforesaid of any iron or steel shall be deemed to be only an acquisition from or disposal by the person on whose behalf or to whose order the carrier, warehouseman or servant so disposes of that steel.

8. *Use of Iron and Steel to conform to conditions governing acquisition*. A person acquiring iron or steel in accordance with the provisions of clause 4 shall not use the iron or steel otherwise than in accordance with any conditions contained or incorporated in the document which was the authority for the acquisition.

9. *Surrender of revoked authorities*. Where any written order referred to in clause 4 or 5 is revoked by the authority which issued it, the person to whom it was issued shall forthwith return it to the authority which issued it.

10. *Surrender of authorities at the time of acquisition*. A person disposing of iron or steel in accordance with the provisions of clause 5 shall obtain from the person acquiring the steel the document which is the authority for the disposal and acquisition and shall preserve it, and when so required shall deliver it to the Controller or to such person as the Controller may direct.

10A. All applications for authorisation under this order to acquire or dispose of any iron or steel under an agreement for the supply thereof entered into before the commencement of this order shall be made not later than the 21st day of December 1941, and no such applications made after that date shall be taken into consideration.

10B. *Power to direct sale*.—The Controller may, by a written order, require any person holding stock of iron and steel, acquired by him otherwise than in accordance with the provisions of clause 4 to sell the whole or any part of the stock to such person or class of persons and on such terms and conditions as may be specified in the order.

10C. *Power to Prohibit Removal.*—The Controller may order any producer (including a registered producer) any stockholder (including a controlled stockholder) or any other person not to remove or permit the removal of any iron or steel, whether sold or unsold, from his stockyard or from any other part of his premises to any place outside the precincts of such stockyard or premises, except with the written permission of the Controller.

11. Power to require keeping of accounts and to obtain information.

(1) Every producer and every stockholder and other person holding stocks of iron or steel shall keep such books, accounts and records relating to the business carried on by him as the Controller may require.

(2) Every producer or stockholder or person holding stocks of iron or steel and every person employed in connection with the business of a producer or stockholder or person holding stocks of iron or steel shall, on being requested so to do, either by notice served on him or special or general direction issued by the Controller:—

- (a) produce to such person such accounts and other documents and within such period as may be specified in the notice or direction;
- (b) furnish to the Controller such estimates, returns and other information relating to the business and within such period as may be specified in the notice or direction;

11A. The Controller may, where he is satisfied that such action is necessary in order to co-ordinate the production of iron or steel with the demands for iron or steel which have arise or are likely to arise under authorisations to acquire duly issued under this order:

- (a) prohibit, with effect from such date as he may specify the manufacture by any producer of iron or steel of any of the categories specified in the Second Schedule to this order, otherwise than in accordance with any general or special directions issued by the Controller.
- (b) require with effect from such date and with reference to such periods as the Controller may specify, any producer to obtain approval to his programme of a manufacture of iron or steel of any of the categories specified in the Second Schedule to this Order;
- (c) require, with effect from such date as the Controller may specify, any producer to manufacture iron or steel of such categories as he is capable of manufacturing, in accordance either with programmes of production approved under sub-clause (b) of this clause or with special instructions issued by the Controller.

11A. A. (1) The Controller may by order in writing direct any stockholder or other person holding stocks of iron and steel to maintain a list of the godowns and stockyards with the boundaries thereof, where iron or steel belonging to him is stocked, and to exhibit such list on his business premises. The Controller may in any such order give directions as to the manner in which the order is to be carried out.

“(2) The Controller may, by notification in the Official Gazette, direct that every producer, stockholder or other person holding stocks of iron and steel when selling any iron or steel give to the purchaser a memorandum containing the particulars specified in such notification.”

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"(3) No producer, stockholder, or other person holding stocks of iron and steel shall, without sufficient cause, refuse to sell any iron or steel which he is authorised to sell under this order."

Explanation.—The possibility or expectation of obtaining a higher price at a later date shall not be deemed to be a sufficient cause for the purpose of this clause.

11B. *Power to fix prices.*—(1) The Controller may from time to time by notification in the *Gazette of India* fix the maximum prices at which any iron or steel may be sold (a) by a Producer, (b) by Stockholder including a Controlled Stockholder and (c) by any other person or class of persons. Such price or prices may differ for iron and steel obtainable from different sources and may include allowances for contribution to and payment from any equalisation fund established by the Controller for equalising freight, the concession rates payable to each producer or class of producers under agreements entered into by the Controller with the producers from time to time and any other disadvantages.

(2) For the purpose of applying the prices notified under sub-clause (1) the Controller may himself classify any iron and steel and may, if no appropriate price has been so notified fix such price as he considers appropriate.

(2A) The Controller may, by notification in the *Gazette of India*, direct that the maximum prices fixed under sub-clause (1) or (2) shall not apply to any specified stock of iron or steel and may in such notification fix the maximum prices for such stock of iron or steel.

(3) No producer or stockholder or other person shall sell or offer to sell, and no person shall acquire any iron or steel at a price exceeding the maximum prices fixed under sub-clause (1) (2) or (2A).

11C. *Power to control the creation of new productive capacity.* No person shall, except under the authority of and in accordance with the conditions specified in, a general or special order of the Controller :—

(a) erect, re-erect, construct or extend any buildings or works intended for the production of iron or steel ;

(b) instal any plant or equipment, including any machine tools for the production of iron or steel ;

11D. *Power of the Controller.*—The Controller may with a view to securing compliance with this Order,—

(a) require any person to give such information in his possession in respect of any business carried on by that or any other person.

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of any person ;

(c) enter and search, or authorise any person to enter and search, any premises and seize or authorise any person to seize any article in respect of which he has reason to believe that a contravention of this Order has been, is being or is about to be committed, and any other article in the premises which he has reason to believe has been or is intended to be used in connection with such contravention.

12. *Power of Central Government to give direction.*—The Central Government may give directions as to the procedure to be followed by the authorities issuing the written orders, referred to in clauses 4 and 5 as to the conduct by Departments of any operations undertaken under this Order as to the maintenance by the Controller of Records in connection with the distribution of iron or steel and generally for the purpose of giving effect to the provisions of the Order.

13. Any Court trying a contravention of this Order may, without prejudice to any other sentence which it may pass, direct that any iron and steel in respect of which the Court is satisfied that this Order has been contravened shall be forfeited to His Majesty.

THE SECOND SCHEDULE.

(See Clause 3).

Iron and Steel to which the Order applies :—

Pig Iron

Ingots, blooms, billets, tin bars, sheet bars, and slabs

Steel castings

Heavy structurals (including heavy sections of joists, channels and angles)

Light structurals (including light sections of joists, channels, angles, tools and light rails of 30 lbs. and under).

Tyres, heels and axles

Shell steel ingots, blooms, billets and bars

Heavy rails (over 30 lbs.), fish plates, dog spikes, chair spikes, screw spikes

Tinplate, Torneplate

Black sheets (plain and corrugated)

Galvanised sheets (plain and corrugated)

Plates (shipbuilding)

Plates (ordinary mild steel and tensile)

Plates (bullet proof)

Bars (including flats, squares, rounds, hexagons and rods)

Bolts, (including Fish Bolts), nuts and rivets

Black or Galvanised Wire, whether plain or barbed

Wire Nails

Wire (Miscellaneous)

Hoops and Strip

Spring Steel in any unfabricated or semi-fabricated form

Tool Steel in any unfabricated or semi-fabricated form

Wrought iron pressure pipes and tubes, steel pressure pipes and tubes

Wrought iron fittings, malleable iron fittings and steel fittings

Coated or uncoated, excluding electrical conduit pipes

Cast Iron Pressure Pipes and Specials

Wire Ropes

GOVERNMENT OF INDIA.

DEPARTMENT OF SUPPLY.

New Delhi, 25th February 1943.

No. 221.—In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Defence of India Rules, the Central Government is pleased to make the following Order, namely :—

IRON AND STEEL (SCRAP CONTROL) ORDER, 1943.

1. *Short title, extent and commencement.*—(1) This Order may be called the Iron and Steel (Scrap Control) Order, 1943.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on the 1st March 1943.

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2. *Definitions.*—In this Order unless there is anything repugnant in the subject or context:—

(a) "Controlled Source" means:—

- (i) a producer,
- (ii) a Railway Administration,
- (iii) any factory, local authority, scrap merchant or person declared by the Controller to be controlled source.

(b) "Controller" means the person appointed as Iron and Steel Controller under the Iron and Steel (Control of Production and Distribution) Order, 1941, and includes any person exercising upon authorisation by the Central Government all or any of the powers of a Controller, under this Order;

(c) "Producer" means a person carrying on the business of manufacturing iron or steel;

(d) "Factory" means a factory as defined in clause (i) of Section 2 of the Factories Act, 1934 (XXV of 1934), other than a factory managed by a producer or a Railway Administration;

(e) "Local authority" shall have the meaning assigned to it by sub-section (28) of Section 3 of the General Clauses Act, 1897 (X of 1897);

(f) "Scrap" means all iron or steel material which is commonly known as scrap and includes defective iron or steel material whether it is suitable only for re-rolling or re-melting or can be used for other purposes;

(ff) A certificate signed by the Controller or any officer authorised by him in this behalf shall be conclusive proof that the material in respect of which the certificate is issued is "scrap" for the purpose of this Order;

(g) "Scrap merchant" means a person other than a producer who carries on the business of acquiring, sorting and classifying scrap for disposal.

3. *Acquisition of scrap.*—No producer shall acquire or agree to acquire any scrap except under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller, and no person or authority other than a producer shall acquire or agree to acquire any scrap from a controlled source save under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller.

4. *Disposal of scrap.*—No person or authority having the management of a controlled source shall sell or otherwise dispose of any scrap save under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller.

5. *Carriers, warehousemen and servants.*—For the purpose of clauses 3 and 4 any acquisition by or disposal to a carrier, warehouseman or servant acting in the ordinary course of his business or employment as such of any scrap shall be deemed to be only an acquisition by or disposal to the person on whose behalf or to whose order the carrier, warehouseman or servant so acquires that scrap; and any acquisition from or disposal by a carrier, warehouseman or servant acting as aforesaid of any scrap shall be deemed to be only an acquisition from or disposal by the person on whose behalf or to whose order the carrier, warehouseman or servant so disposes of that scrap.

5A. *Power to direct sale.*—The Controller may, by a written order, require any persons holding stock of scrap, acquired by him otherwise than in accordance with the provisions of Clause 3, to sell the whole or any part of the stock to such person or class of persons and on such terms and conditions as may be specified in the Order.

5B. *Power to prohibit removal.*—The Controller may order any controlled source, scrap merchant or any other persons not to remove or permit the removal of any scrap, whether sold or unsold, from his stockyard or from any other part of his premises to any place outside the precincts of such stockyard or premises, except with the written permission of the Controller.

5C. *Power of the Controller.*—The Controller may with a view to securing compliance with this Order,—

(a) require any person to give such information in his possession with respect to any business carried on by that or any other persons;

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of any person;

(c) enter and search or authorise any person to enter and search, any premises and seize or authorise any person to seize any article in respect of which he has reason to believe that a contravention of this Order has been, is being or is about to be committed, and any other article in the premises which he has reason to believe, has been or is intended to be used in connection with such contravention.

6. *Regulation of controlled sources.*—The Controller may from time to time issue directions to the person or authority having the management of any controlled source requiring him:—

(a) to keep such books, accounts, and records relating to his business as the Controller may specify in the direction;

(b) to produce to such person as may be mentioned in the direction such accounts and other documents as the Controller may specify in the direction;

(c) to furnish to the Controller such estimates, returns and other information relating to the business as may be mentioned in the direction;

(d) to permit any person or persons of a class or description mentioned in the direction to enter and inspect with a view to securing compliance with this order any premises used for or in connection with the business.

(e) to sort the scrap in his possession from time to time in accordance with such classification as may be mentioned in the direction.

7. *Declarations, written orders and directions.*—(1) Declarations under clause 2(a) and directions under clause 6 shall be in writing and shall be delivered to the person or authority concerned personally or by registered post.

(2) Written orders under clause 3 or clause 4 may be made by the Controller on application or of his own motion and shall be delivered to the person or authority concerned personally or by registered post.

(3) The person or authority to whom a direction of written order is addressed shall comply with the same, and with any conditions contained or incorporated therein.

(4) When a written order is revoked by the Controller the person or authority to whom it was addressed shall forthwith return it to the Controller.

7A. (1) The Controller may by order in writing direct any controlled source or scrap merchant or other person holding stocks of scrap to maintain a list of the godowns and stockyards with the boundaries thereof, where scrap belonging to him is stocked, and to exhibit such list on his business premises. The Controller may in any such order give directions as to the manner in which the order is to be carried out.

(2) The Controller may, by notification in the Official Gazette, direct that every controlled source, scrap merchant or other person holding stocks of scrap when selling any scrap shall give to the purchaser a memorandum containing the particulars specified in such notification.

8. *Controller's power to fix prices.*—(1) The Controller shall from time to time with the approval of the Central Government publish by notification in the Official Gazette prices for different classes of scrap. Such prices may differ, for scrap obtainable from different persons and classes of persons, may specify buyers' and sellers' prices and may include allowances for contributions to any equalisation fund established by the Controller for equalising freight and other disadvantages.

(2) For the purpose of applying the prices notified under sub-clause (1) of this clause, the Controller may himself classify any scrap and may, if no appropriate price has been so notified, fix such price as he considers appropriate.

(3) When an accumulation of scrap contains heavy pieces which in the opinion of the Controller should be broken up before the scrap is disposed of, the Controller may direct the person or authority having the management of controlled source concerned to break up the scrap to a suitable size, and may, if his direction is not complied with reduce the price of the scrap so as to cover the cost to the purchaser of breaking it up.

(4) No person shall sell or offer to sell or otherwise dispose of, and no person shall acquire any scrap at prices in excess of those notified by the Controller under this clause.

9. Any Court trying a contravention of this Order, may, without prejudice to any other sentence which it may pass, direct that any Iron and Steel Scrap in respect of which the Court is satisfied that this Order has been contravened shall be forfeited to His Majesty.

(Corrected up to 31st March 1951).

PART IV

Section 2-C

RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

Home Department.

No. H.A. 4917—Pol. 6-51-12, dated Bangalore, 21st August 1951.

In exercise of the powers conferred by Section 8 of the Mysore Cinematograph Act, 1923 (Mysore Act XII of 1923), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Cinematograph Rules, 1946, namely:—

1. To Rule 63 of the said Rules, the following “Explanation” shall be added:

“*Explanation*:—For the purposes of this rule “Place” means an area within a radius of five miles from the licensed premises at which the travelling - Cinematograph exhibition was given.”

2. To sub-rule (1) of Rule 65 of the said Rules, the following “Explanation” shall be added:—

“*Explanation*:—For the purposes of this sub-rule “Place” means an area within a radius of five miles from the site on which the permanent cinema theatre is located.”

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Chief Secretary to Government.

No. L.S. 2055—L.W. 78-51-2, dated Bangalore, 29th August 1951.

It is hereby notified that the period of one month allowed in Government Notification No. L.S. 1264—L.W. 78-51-1, dated 30th June 1951, for receiving objections and suggestions relating to the draft of the Mysore Minimum Wages Rules, 1951, published in the *Mysore Gazette*, dated 5th July 1951, is extended up to and inclusive of 8th September 1951.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

No. A.F. 4933—Agri. 295-50-6, dated Bangalore, the 22nd August 1951.

In exercise of the powers conferred by Section 3 of the Mysore Cotton Control Act, 1942 (Mysore Act No. III of 1942), His Highness the Maharaja of Mysore is pleased to direct that the following amendment shall be made in Notification No. A.F. 10709—Agri. 295-50-2, dated the 19th March 1951, namely:—

In para. 1 of the said Notification entry 5 relating to Honnali and Channagiri Taluks of Shimoga District shall be omitted.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,
*Secretary to Government,
Food and Agriculture Departments.*

PART IV

Section 2-C

RULES, ORDERS AND NOTIFICATIONS UNDER
MYSORE ACTS AND ORDINANCES.

NOTIFICATIONS.

Home Department.

No. H.A. 4917—Pol. 6-51-12, dated Bangalore, 21st August 1951.

In exercise of the powers conferred by Section 8 of the Mysore Cinematograph Act, 1923 (Mysore Act XII of 1923), His Highness the Maharaja of Mysore is pleased to direct that the following further amendments shall be made in the Mysore Cinematograph Rules, 1946, namely:—

1. To Rule 63 of the said Rules, the following “Explanation” shall be added:

“*Explanation*:—For the purposes of this rule “Place” means an area within a radius of five miles from the licensed premises at which the travelling Cinematograph exhibition was given.”

2. To sub-rule (1) of Rule 65 of the said Rules, the following “Explanation” shall be added:—

“*Explanation*:—For the purposes of this sub-rule “Place” means an area within a radius of five miles from the site on which the permanent cinema theatre is located.”

By Order of His Highness the Maharaja,

E. V. GANAPATI IYER,

Chief Secretary to Government.

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By Order of His Highness the Maharaja,

N. R. JAYA RAO,
*Legal Remembrancer and
Secretary to Government,
Law Department.*

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In exercise of the powers conferred by Section 3 of the Mysore Cotton Control Act, 1942 (Mysore Act No. III of 1942), His Highness the Maharaja of Mysore is pleased to direct that the following amendment shall be made in Notification No. A.F. 10709—Agri. 295-50-2, dated the 19th March 1951, namely:—

In para 1 of the said Notification entry 5 relating to Honnali and Channagiri Taluks of Shimoga District shall be omitted.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,
*Secretary to Government,
Food and Agriculture Departments.*

PART IV 640

Section I-C.

RULES, ORDERS AND NOTIFICATIONS UNDER CENTRAL
ACTS AND ORDINANCES.

NOTIFICATION.

No. L.D. 903—Legis. 5-51-33, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1152, dated the 29th June 1951 of the Ministry of Rehabilitation amending the Permit System Rules, 1949, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF REHABILITATION.

New Delhi, the 29th June 1951.

S.R.O. 1152.—In exercise of the powers conferred by section 4 of the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), the Central Government hereby directs that the following further amendments shall be made in the Permit System Rules, 1949, namely:—

In rule 5 of the said rules—

(a) the proviso to clause (iv) shall be omitted,

(b) the following proviso shall be added at the end, namely:—

“Provided that in the Presidency towns of Bombay, Calcutta and Madras the powers conferred by clauses (iii) and (iv) may be exercised by the Commissioner of Police or a Deputy Commissioner of Police.”

[No. III/PMT (X-125)/(50-N)(11).]

V. D. DANTYAGI, Joint Secy.

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NOTIFICATION.

No. L.D. 907—Legis. 5-51-34, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1157, dated the 23rd July 1951, of the Ministry of Labour amending the Mines Creche Rules, 1946, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA.

MINISTRY OF LABOUR.

New Delhi, the 23rd July 1951.

S.R.O. 1157.—In exercise of the powers conferred by clause (bb) of section 30 of the Indian Mines Act, 1923 (IV of 1923), the Central Government hereby directs that the following amendments shall be made in the Mines Creche Rules, 1946. the same having been published as required by sub-section (1) of section 31 of the said Act, namely:—

In the said Rules, to clause (a) of rule 3, the following provisos shall be added, namely:—

“Provided that where the competent authority is of the opinion that the situation, nature and extent of the workings or other places where women are employed are such as to render compliance with the provisions of the Rules not reasonably practicable, the competent authority may by order in writing exempt any owner of a mine from the provisions of the rule for such period as may be specified in the order.

Provided further that where an exemption is granted under this rule the competent authority may require, within such period as may be specified in the order, a suitable room or rooms with an attendant and other necessary equipments to be provided and maintained at or near any working place or part of the mine.”

[No. M. 41 (22) 50].]

P. N. SHARMA, Under Secy.

NOTIFICATION. 642

No. L.D. 908—Legis. 6-51-23, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1135, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA:

MINISTRY OF FINANCE (REVENUE DIVISION).

CUSTOMS.

New Delhi, the 28th July 1951.

S.R.O. 1135.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby directs that no person shall except with the general or special permission of the Reserve Bank of India take or send out to any place outside India by post or otherwise any security as defined in clause (k) of section 2 of the Foreign Exchange Regulation Act, 1947 (VII of 1947).

[No. 60.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 909—Legis. 6-51-24, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1136, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

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GOVERNMENT OF INDIA.

MINISTRY OF FINANCE (REVENUE DIVISION).

CUSTOMS.

New Delhi, the 28th July 1951.

S.R.O. 1136.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby prohibits the export otherwise than by post of any goods either directly or indirectly to any place outside India other than any of the countries or territories in the Schedule annexed to this order unless a declaration is furnished by the exporter to the Collector of Customs or to such other person as the Reserve Bank may specify in this behalf that an amount representing the full export value of the goods has been or will be disposed of in a manner and within a period specified by the Reserve Bank.

Provided that this prohibition shall not apply to the export of—

1. Samples and personal effects, whether accompanied or unaccompanied of travellers;
2. Ships, stores, transhipment cargo and goods shipped under the orders of the Central Government or of such officers as may be appointed by the Central Government in this behalf or of the military, naval or air force authorities in India for military, naval or air force requirements.

SCHEDULE.

Nepal,
Tibet

French territories in India
Portuguese territories in India.

[No. 61.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 910—Legis. 6-51-25, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1137, dated the 28th July 1951 of the Ministry of Finance (Revenue Division), under Section 19 of the Sea Customs Act, 1878, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

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GOVERNMENT OF INDIA.
MINISTRY OF FINANCE (REVENUE DIVISION)

CUSTOMS.

New Delhi 28th July 1951.

S.R.O. 1137.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government hereby prohibits the export by post of any goods either directly or indirectly to any place outside India other than any of the countries or territories in the schedule annexed to this order unless a declaration countersigned by the Reserve Bank of India or by a bank authorised to deal in the foreign currency of the country of destination is furnished by the exporter to the Postal Authorities at the time of the despatch that an amount representing the full export value of the goods has been or will be disposed of in a manner and within a period specified by the Reserve Bank.

Provided that this prohibition shall not apply:

- (1) Where the postal packet is covered by a certificate issued by the Reserve Bank or by an authorised dealer that the export of the parcel does not involve any transaction in foreign exchange.
- (2) Where the postal packet is accompanied by a declaration by the sender that the contents of the parcel are less than Rs. 50 in value and that the despatch of the parcel does not involve any transaction in foreign exchange.

SCHEDULE.

Nepal,	French territories in India.
Tibet,	Portuguese territories in India.

[No. 62.]

D. P. ANAND, Dy. Secy.

NOTIFICATION.

No. L.D. 911—Legis. 6-51-26, dated Bangalore, 20th August 1951.

Ordered that Notification No. S.R.O. 1150, dated the 25th July 1951 from the Ministry of Food and Agriculture under the Destructive Insects and Pests Act, 1914, amending the late Department of Education, Health and Lands Notification No. F. 50-13 (20)/39-A, dated the 20th November 1940, published in the *Gazette of India*, Part II, Section 3, dated the 28th July 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA. 648
MINISTRY OF FOOD AND AGRICULTURE.

(AGRICULTURE).

New Delhi, the 25th July 1951.

S.R.O. 1150.—In exercise of the powers conferred by sections 4A and 4D of the Destructive Insects and Pests Act, 1914 (II of 1914), the Central Government hereby directs that the following further amendments shall be made in the rules published with the notification of the Government of India in the late Department of Education, Health and Lands No. F. 50-13 (20)/39-A, dated 20th November 1940, namely:

In the said rules—

(1) In the preamble and in the rule 1 for the words "United Provinces, the North-West Frontier Province, the Province of Madras, West Bengal, Assam and Orissa and British Baluchistan" the words "Uttar Pradesh, the States of Madras, West Bengal, Assam and Orissa" shall be substituted.

(2) In the preamble for the words "British India" the word "India" shall be substituted.

(3) For the words "Province" and "Provincial" wherever they occur in the said notification, the word "State" shall be substituted.

(4) In rule 3 the word "British" shall be omitted.

(5) In the entries under the Note at the end of the Notification—

(a) Items (c) and (e) shall be omitted.

(b) In item (a) for the word "Lyallpur" the word "Jullundur" shall be substituted.

(c) In item (b), for the words "United Provinces" the words "Uttar Pradesh" shall be substituted.

[No. F. 6-11/51-Dte. I.]

J. V. A. NEHEMIAH, Dy. Secy.

NOTIFICATION.

No. L.D. 919—Legis. 5-51-35, dated Bangalore, 24th August 1951.

Ordered that notification No. S.R.O. 801, dated the 16th May 1951 of the Ministry of Labour, amending the Minimum Wages (Central) Rules, 1950, published in the *Gazette of India*, Part II, Section 3, dated the 26th May 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
 Secretary to Government,
 Law Department.*

GOVERNMENT OF INDIA: 646

MINISTRY OF LABOUR.

NOTIFICATION

New Delhi, the 16th May 1951.

S.R.O. 801.—In exercise of the powers conferred by Section 30 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby makes the following amendments to the Minimum Wages (Central) Rules, 1950, the same having been previously published as required by the said section, namely :—

In the said Rules :—

(i) In clause (i) of sub-rule (1) of rule 21, after the words "shall be paid", the words "on a working day" shall be inserted.

(ii) In rule 24 after sub-rule (4), the following sub-rule shall be added, namely

"(5) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948."

(iii) In rule 25 after sub-rule (2), the following sub-rule shall be added, namely

"(3) Nothing in this rule shall be deemed to affect the provisions of the Factories Act, 1948."

[LWI-24(16).]

P. N. SHARMA,

Under Secy.

NOTIFICATION.

No. L.D. 924—Legis. 5-51-36, dated Bangalore, 25th August 1951.

Ordered that the Notifications No. S.R.O. 328 and 329, dated the 11th August 1951, of the Ministry of Defence amending the Territorial Army Rules, 1948, published in the *Gazette of India*, Part II, Section 4, dated the 11th August 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

*Legal Remembrancer and
Secretary to Government,
Law Department.*

GOVERNMENT OF INDIA. 647

PART II.—Section 4.

Statutory Rules and Orders issued by the Ministry of Defence.

MINISTRY OF DEFENCE.

New Delhi, the 11th August 1951.

S.R.O. 328.—In exercise of the powers conferred by section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government hereby directs that the following further amendments shall be made in the Territorial Army Rules 1948, namely :—

In the table annexed to sub-rule (1) of rule 15 of the said Rules, in the second column, under the heading "Authority competent to authorise discharge of enrolled person"

For the entry against "Clause (iii) of sub-rule (b) of rule 14" the following shall be substituted, namely :—

"At any time during the enrolled person's first two years of training if he is unlikely to become an efficient soldier, or is untraceable, or does not report for training for a period of one year, or in the case of an unattested recruit at his own request, the Commanding Officer; in all other cases, the Sub-Area Commander."

(Case No. 38749/GS/TA-3).

S.R.O. 329.—In exercise of the powers conferred by section 14 of the Territorial Army Act, 1948 (LVI of 1948), the Central Government hereby directs that the following further amendment shall be made to the Territorial Army Rules, 1948, namely :—

To rule 1 of the said rules, the words "They extend to the whole of India." shall be *added* at the end.

(Case No. F.200/51/D/GS.)

H. M. Patel, Secy.

NOTIFICATION.

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No. S.D. 3563—C. 26-51-14, dated Bangalore, 22nd August 1951.

The following notification No. F. 16-11—51-EP, dated 27th July 1951, issued by the Government of India, Ministry of Food and Agriculture (Agriculture), is republished for the information of the public :—

No. F. 16-11—51-EP.

GOVERNMENT OF INDIA.

MINISTRY OF FOOD AND AGRICULTURE (AGRICULTURE).

New Delhi, the 27th July 1951.

NOTIFICATION.

In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that no order made or deemed to be made under the said Act or under any corresponding law in force in a Part 'B' State shall have effect so as to prohibit or restrict the movement of edible oilseeds and edible oils from any place in a State to any other place within or outside the State or so as to regulate or control the price, production, movement or distribution thereof in any manner whatsoever.

VISHNU SAHAY,

Secretary to the Government of India.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*

NOTIFICATION.

No. C. 783—Co. 40-50-57, dated Bangalore, 23rd—24th August 1951.

Ordered that the accompanying notifications Nos. 15 (5) PC—50—Pt. 1, 15 (5) PC—50—Pt. 2 and 15 (5) PC—50—Pt. 3 each dated the 23rd July 1951 of the Government of India, Ministry of Commerce and Industry, under the Supply and Prices of Goods Act, 1950 (LXX of 1950), be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments.*

GOVERNMENT OF INDIA. 649

MINISTRY OF COMMERCE AND INDUSTRY.

NOTIFICATIONS.

New Delhi, the 23rd July 1951.

No. 15 (5) P.C. 50—Pt.1—In exercise of the powers conferred by sections 4, 7, 9, 10 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 503, dated the 2nd September 1950, namely—

In sub-clause (i) of clause (b) of the said notification, the following sentence shall be added at the end, namely:—

“A copy of the statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf.”

P. S. SUNDARAM

Under Secretary to the Govt. of India.

No. 15 (5) P.C.—50—Pt.2—In exercise of the powers conferred by sections 7, 13 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply No. S.R.O. 700, dated the 30th September, 1950, namely:—

In clause (b) of the said notification, the following shall be added at the end after the word ‘and’, namely:—

“A copy of such statement shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf; and ”

P. S. SUNDARAM,

Under Secretary to the Govt. of India.

No. 15 (5) P.C.—50—Pt.3—In exercise of the powers conferred by sections 7 and 19 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the late Ministry of Industry and Supply, No. S.R.O. 971, dated the 25th November 1950, namely:—

The following shall be added to the said notification at the end, namely:—

“A copy of such declaration shall be sent by the dealer or producer to the Government of the State in which the dealer or producer is carrying on business or to any officer authorised by the State Government in this behalf.”

P. S. SUNDARAM,

Under Secretary to the Govt. of India.

NOTIFICATION.

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No. D. 2443—I.W. 21-51-7, dated Bangalore, 25th—28th July 1951.

The Iron and Steel (Control of Production and Distribution) Order, 1941, and the Iron and Steel (Scrap Control) Order, 1943, of the Central Government the operation of which was extended to the Mysore State by Notifications No. I (1)-4 (62) dated the 12th September 1950 issued by the Government of India, Ministry of Industry and Supply, are hereby republished for the information of registered dealers in Iron and Steel and the general public.

By Order of His Highness the Maharaja

N. PUTTARANGASWAMY,

*Secretary to Government,
Food and Agriculture Departments*

GOVERNMENT OF INDIA.

MINISTRY OF INDUSTRY AND SUPPLY.

Notification.

Simla, the 26th July 1941.

No. 315. In exercise of the powers conferred by sub-rule (2) of rule 81 of the Defence of India Rules, the Central Government is pleased to make the following Order :—

Iron and Steel (Control of Production and Distribution) Order, 1941.

1. *Short title, extent and commencement.*—(1) This order may be called the Iron and Steel (Control of Production and Distribution) Order, 1941.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on the 1st August 1941.

2. *Definitions.*—In this Order, unless there is anything repugnant in the subject or context :—

(a) "Controller" means the person appointed as Iron and Steel Controller by the Central Government and includes any person exercising upon authorisation by the Central Government, all or any of the powers of the Iron and Steel Controller;

(b) "Producer" means a person carrying on the business of manufacturing iron and steel;

(c) "Registered Producer" means a producer who is registered as such by the Controller;

(d) "Stockholder" means a person holding stocks of Iron or Steel for sale who is registered as a stockholder by the controller;

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(e) "Controlled Stockholder" means a stockholder appointed by the controller to hold stocks of iron or steel under such terms and conditions as he may prescribe from time to time;

(f) "Pressure Pipes" include all Pipes and Tubes of 1/8" nominal bore and above, which will withstand or may be used for a working pressure of 25 lbs. per square inch and above.

3. (1) *Application of Order.*—The provisions of this Order shall apply to all iron or steel of the categories specified in the second schedule to this Order.

(2) A certificate signed by the Controller or by any officer authorised by him in this behalf, in respect of any category of iron or steel, shall be conclusive proof that it is any article to which this order is applicable.

4. *Acquisition.*—No person shall acquire or agree to acquire any iron or steel from a Producer or Stockholder except under the authority of and in accordance with the conditions contained or incorporated in a general or special written order of the Controller.

5. *Disposal.*—No producer or stockholder shall dispose of or agree to dispose of or export or agree to export from any place to which this order extends any iron or steel except, in accordance with the conditions contained or incorporated in a special or general written order of the Controller.

6. *Carriers, warehouseman and servants.*—For the purposes of clauses 4 and 5 any acquisition by or disposal to a carrier or warehouseman or servant acting in the ordinary course of his business or employment as such of any iron or steel shall be deemed to be only an acquisition by or disposal to the person on whose behalf or to whose order the carrier, warehousemen or servant so acquires that steel, and any acquisition from or disposal by a carrier or warehouseman or servant acting as aforesaid of any iron or steel shall be deemed to be only an acquisition from or disposal by the person on whose behalf or to whose order the carrier, warehouseman or servant so disposes of that steel.

8. *Use of Iron and Steel to conform to conditions governing acquisition.* A person acquiring iron or steel in accordance with the provisions of clause 4 shall not use the iron or steel otherwise than in accordance with any conditions contained or incorporated in the document which was the authority for the acquisition.

9. *Surrender of revoked authorities.* Where any written order referred to in clause 4 or 5 is revoked by the authority which issued it, the person to whom it was issued shall forthwith return it to the authority which issued it.

10. *Surrender of authorities at the time of acquisition.* A person disposing of iron or steel in accordance with the provisions of clause 5 shall obtain from the person acquiring the steel the document which is the authority for the disposal and acquisition and shall preserve it, and when so required shall deliver it to the Controller or to such person as the Controller may direct.

10A. All applications for authorisation under this order to acquire or dispose of any iron or steel under an agreement for the supply thereof entered into before the commencement of this order shall be made not later than the 21st day of December 1941, and no such applications made after that date shall be taken into consideration.

10B. *Power to direct sale.*—The Controller may, by a written order, require any person holding stock of iron and steel, acquired by him otherwise than in accordance with the provisions of clause 4 to sell the whole or any part of the stock to such person or class of persons and on such terms and conditions as may be specified in the order.

10C. *Power to Prohibit Removal.*—The Controller may order any producer (including a registered producer) any stockholder (including a controlled stockholder) or any other person not to remove or permit the removal of any iron or steel, whether sold or unsold, from his stockyard or from any other part of his premises to any place outside the precincts of such stockyard or premises, except with the written permission of the Controller.

11. *Power to require keeping of accounts and to obtain information.*

(1) Every producer and every stockholder and other person holding stocks of iron or steel shall keep such books, accounts and records relating to the business carried on by him as the Controller may require.

(2) Every producer or stockholder or person holding stocks of iron or steel and every person employed in connection with the business of a producer or stockholder or person holding stocks of iron or steel shall, on being requested so to do, either by notice served on him or special or general direction issued by the Controller:—

- (a) produce to such person such accounts and other documents and within such period as may be specified in the notice or direction ;
- (b) furnish to the Controller such estimates, returns and other information relating to the business and within such period as may be specified in the notice or direction ;

11A. The Controller may, where he is satisfied that such action is necessary in order to co-ordinate the production of iron or steel with the demands for iron or steel which have arise or are likely to arise under authorisations to acquire duly issued under this order.

- (a) prohibit, with effect from such date as he may specify the manufacture by any producer of iron or steel of any of the categories specified in the Second Schedule to this order, otherwise than in accordance with any general or special directions issued by the Controller.
- (b) require with effect from such date and with reference to such periods as the Controller may specify, any producer to obtain approval to his programme of a manufacture of iron or steel of any of the categories specified in the Second Schedule to this Order ;
- (c) require, with effect from such date as the Controller may specify, any producer to manufacture iron or steel of such categories as he is capable of manufacturing, in accordance either with programmes of production approved under sub-clause (b) of this clause or with special instructions issued by the Controller.

11A. A. (1) The Controller may by order in writing direct any stockholder or other person holding stocks of iron and steel to maintain a list of the godowns and stockyards with the boundaries thereof, where iron or steel belonging to him is stocked, and to exhibit such list on his business premises. The Controller may in any such order give directions as to the manner in which the order is to be carried out.

“(2) The Controller may, by notification in the Official Gazette, direct that every producer, stockholder or other person holding stocks of iron and steel when selling any iron or steel give to the purchaser a memorandum containing the particulars specified in such notification.”

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"(3) No producer, stockholder, or other person holding stocks of iron and steel shall, without sufficient cause, refuse to sell any iron or steel which he is authorised to sell under this order."

Explanation.—The possibility or expectation of obtaining a higher price at a later date shall not be deemed to be a sufficient cause for the purpose of this clause.

11B. *Power to fix prices.*—(1) The Controller may from time to time by notification in the *Gazette of India* fix the maximum prices at which any iron or steel may be sold (a) by a Producer, (b) by Stockholder including a Controlled Stockholder and (c) by any other person or class of persons. Such price or prices may differ for iron and steel obtainable from different sources and may include allowances for contribution to and payment from any equalisation fund established by the Controller for equalising freight, the concession rates payable to each producer or class of producers under agreements entered into by the Controller with the producers from time to time and any other disadvantages.

(2) For the purpose of applying the prices notified under sub-clause (1) the Controller may himself classify any iron and steel and may, if no appropriate price has been so notified fix such price as he considers appropriate.

(2A) The Controller may, by notification in the *Gazette of India*, direct that the maximum prices fixed under sub-clause (1) or (2) shall not apply to any specified stock of iron or steel and may in such notification fix the maximum prices for such stock of iron or steel.

(3) No producer or stockholder or other person shall sell or offer to sell, and no person shall acquire any iron or steel at a price exceeding the maximum prices fixed under sub-clause (1) (2) or (2A).

11C. *Power to control the creation of new productive capacity.* No person shall, except under the authority of and in accordance with the conditions specified in, a general or special order of the Controller :—

(a) erect, re-erect, construct or extend any buildings or works intended for the production of iron or steel ;

(b) instal any plant or equipment, including any machine tools for the production of iron or steel ;

11D. *Power of the Controller.*—The Controller may with a view to securing compliance with this Order,—

(a) require any person to give such information in his possession in respect of any business carried on by that or any other person.

(b) inspect or cause to be inspected any books or other documents belonging to or under the control of any person ;

(c) enter and search, or authorise any person to enter and search, any premises and seize or authorise any person to seize any article in respect of which he has reason to believe that a contravention of this Order has been, is being or is about to be committed, and any other article in the premises which he has reason to believe has been or is intended to be used in connection with such contravention.

12. *Power of Central Government to give direction.*—The Central Government may give directions as to the procedure to be followed by the authorities issuing the written orders, referred to in clauses 4 and 5 as to the conduct by Departments of any operations undertaken under this Order as to the maintenance by the Controller of Records in connection with the distribution of iron or steel and generally for the purpose of giving effect to the provisions of the Order.

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13. Any Court trying a contravention of this Order may, without prejudice to any other sentence which it may pass, direct that any iron and steel in respect of which the Court is satisfied that this Order has been contravened shall be forfeited to His Majesty.

THE SECOND SCHEDULE.

(See Clause 3).

Iron and Steel to which the Order applies :—

Pig Iron
 Ingots, blooms, billets, tin bars, sheet bars, and slabs
 Steel castings
 Heavy structurals (including heavy sections of joists, channels and angles)
 Light structurals (including light sections of joists, channels, angles, tools and light rails of 30 lbs. and under).
 Tyres, heels and axles
 Shell steel ingots, blooms, billets and bars
 Heavy rails (over 30 lbs.), fish plates, dog spikes, chair spikes, screw spikes
 Tinplate, Torneplate
 Black sheets (plain and corrugated)
 Galvanised sheets (plain and corrugated)
 Plates (shipbuilding)
 Plates (ordinary mild steel and tensile)
 Plates (bullet proof).
 Bars (including flats, squares, rounds, hexagons and rods)
 Bolts, (including Fish Bolts), nuts and rivets
 Black or Galvanised Wire, whether plain or barbed.
 Wire Nails
 Wire (Miscellaneous)
 Hoops and Strip
 Spring Steel in any unfabricated or semi-fabricated form
 Tool Steel in any unfabricated or semi-fabricated form
 Wrought iron pressure pipes and tubes, steel pressure pipes and tubes
 Wrought iron fittings, malleable iron fittings and steel fittings
 Coated or uncoated, excluding electrical conduit pipes
 Cast Iron Pressure Pipes and Specials
 Wire Ropes

GOVERNMENT OF INDIA.

DEPARTMENT OF SUPPLY.

New Delhi, 25th February 1943.

221—In exercise of the powers conferred by sub-rule (2) of Rule 81 of the Government of India Rules, the Central Government is pleased to make the following Order, namely :—

IRON AND STEEL (SCRAP CONTROL) ORDER, 1943.

Short title, extent and commencement.—(1) This Order may be called the Iron and Steel (Scrap Control) Order, 1943.

It extends to the whole of India except the State of Jammu and Kashmir.

It shall come into force on the 1st March 1943.

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2. *Definitions.*—In this Order unless there is anything repugnant in the or context :—

(a) "Controlled Source" means :—

- (i) a producer,
- (ii) a Railway Administration,
- (iii) any factory, local authority, scrap merchant or person directed by the Controller to be controlled source.

(b) "Controller" means the person appointed as Iron and Steel Controller under the Iron and Steel (Control of Production and Distribution) Order, 1934, and includes any person exercising upon authorisation by the Central Government all or any of the powers of a Controller, under this Order ;

(c) "Producer" means a person carrying on the business of manufacturing iron or steel ;

(d) "Factory" means a factory as defined in clause (i) of Section 2 of the Factories Act, 1934 (XXV of 1934), other than a factory managed by a producer or a Railway Administration ;

(e) "Local authority" shall have the meaning assigned to it by sub-section (28) of Section 3 of the General Clauses Act, 1897 (X of 1897) ;

(f) "Scrap" means all iron or steel material which is commonly known as scrap and includes defective iron or steel material whether it is suitable for re-rolling or re-melting or can be used for other purposes ;

(ff) A certificate signed by the Controller or any officer authorised by him in this behalf shall be conclusive proof that the material in respect of which the certificate is issued is "scrap" for the purpose of this Order ;

(g) "Scrap merchant" means a person other than a producer who is engaged on the business of acquiring, sorting and classifying scrap for disposal.

3. *Acquisition of scrap.*—No producer shall acquire or agree to acquire scrap except under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller, and no person or other than a producer shall acquire or agree to acquire any scrap from a source save under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller.

4. *Disposal of scrap.*—No person or authority having the management of a controlled source shall sell or otherwise dispose of any scrap save under the authority of and in accordance with the conditions contained or incorporated in a written order of the Controller.

5. *Carriers, warehousemen and servants.*—For the purpose of clauses 3 and 4 any acquisition by or disposal to a carrier, warehouseman or servant acting in the ordinary course of his business or employment as such of any scrap shall be deemed to be only an acquisition by or disposal to the person on whose behalf or to whose order the carrier, warehouseman or servant so acquires that scrap ; and any acquisition from or disposal by a carrier, warehouseman or servant acting as such of any scrap shall be deemed to be only an acquisition from or disposal by the person on whose behalf or to whose order the carrier, warehouseman or servant so disposes of that scrap.